SUMARIO/SUMMARY

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Review

Recension

Brigadier General Francisco José Dacoba Cerviño
Director of the Spanish Institute for Strategic Studies

Presentation of the IEEE Journal issue 21

In this the 21st issue of the Revista del Instituto Español de Estudios Estratégicos, we offer nine articles that we consider to be of great interest.

There is no doubt that the crisis unleashed globally by Russia´s invasion of Ukraine is causing great consternation among the international community worldwide, but especially in Europe. It is yet another chapter in the catalogue of great power tensions that have characterised global geopolitics over the last decade, but it should not make us forget that the threat of transnational terrorism has not disappeared. That is why we are including three articles on this subject.

Ana Aguilera Raga examines the impact of the illicit economy security and stability in Libya and its regional neighbours, concluding that there is a strong link between this illicit trade and the rise of terrorism in the Sahel region. Political instability and conflict in Libya have created a power vacuum that has allowed strategic alliances between criminal enterprises and violent extremists to flourish, making Libya an exporter of regional instability. Elena López Werner, for her part, reviews the attacks, carried out from Syria to Libya, carried out between 2014 and 2017 under the self-proclaimed Islamic State's own brand of Foreign Operations Service, and succinctly unpacks the alleged origins of an intelligence agency within IS. Finally, Clara Bañares Martín offers an unusual, and therefore very interesting, view of terrorist activity. She studies this issue from the perspective of economic theory, with the aim of shedding light on the decision-making process of terrorist groups and identifying patterns of behaviour, thus opening up transcendental lines of research for the design of more effective anti-terrorist policies.

Beyond the phenomenon of terrorism, Emanuela Merck Giuliani tries to shed light on the applicability of International Humanitarian Law to belligerent occupations of territory and asks whether IHL has an expiry date in view of the already very long temporary occupation of Palestine. Guillermo Moya Barba, for his part, analyses how

principles have evolved in relation to failed states and what elements should be taken into account when initiating a discussion on peace-building in these territories within the framework of the United Nations Security Council.

The Russian Federation and the People's Republic of China are also featured in this 21st issue. The importance of intelligence in a war such as the one in Ukraine, and consequently of counter-intelligence, has led Juan Carlos Estarellas y López to study counter-intelligence operations aimed at countering Russian foreign intelligence from a double dimension: offensive counter-intelligence, aimed at penetrating the enenmy´s services, and defensive counter-intelligence aimed at identifying agents, the methods they use and their sources of information. China's hypersonic weapons programme is analysed by Rodrigo Pardo de Santayana Jenaro, who notes that it has attracted a great deal of global attention and research interest in recent years, and concludes that the People's Republic's development of a hypersonic weapons system is relevant for what it shows in terms of military capabilities, but even more so for what it means in terms for the innovative capacity of Chinese defence technology.

Two other articles round off this issue. A topic that has so far received little attention in security-related studies, but deserves more attention than it usually receives, is the threat to Earth from cosmic impacts. Elisa Simó Soler, Alberto Coronel Tarancón and Eloy Peña Asensio undertake a rigorous review of the current scientific and technical capabilities for mitigating asteroid impacts, and through an extrapolation exercise they propose the concept of the *impact refugee* and the landless state, using climate refugees and environmental risks as a starting point.

Finally, Enrique Refoyo Acedo looks back at the 19th century Industrial Revolution, and develops some general reflections on Spanish geographical thought applied to the study of borders and transport in the nineteenth and twentieth centuries. He seeks to confirm that this industrial revolution did not only take place in the factories of the Europe´s booming cities, but that a military revolution also took place, which adapted the inventions that emerged in the heat of this revolution for its military purposes.

We conclude, as is customary in this magazine, with reviews of works by two of the Institute's analysts, Federico Aznar Fernández-Montesinos and Javier Fernández Aparicio. The first one is on the book *Playing chess with the devil* by Vicente Gonzalvo Navarro, a reflection on the fate of humanity. The second is on *Australia's Security in China'sSshadow* by Euan Graham, a detailed analysis of Sino-Australian relations.

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Analysis of the DF-ZF hypersonic glide vehicle: a look at China's defense innovation system.

Abstract

On 27July, 2021, China conducted a test with the DF-ZF hypersonic glide vehicle (HGV), which orbited the Earth before reaching its target and prompting ertain US authorities to describe the situation as "worrying" (Sevastopulo, 2021). China's hypersonic weapons programme has attracted a great deal of global attention and research interest in recent years. China's development of a hypersonic weapon system is relevant because of what it provides for the People's Liberation Army (PLA), but even more so because of what it could mean for China's ability to innovate in the field of defense technology. This article examines the technological project that gave rise to the DF-ZF HGV, and using T. M. Cheung's (2021: 775-801) model of defense innovation systemsl, analyses the main factors of the Chinese system to find its potential strengths and weaknesses.

Keywords

China, Innovation, Technology, Military, Hypersonic, DF-ZF, HGV, PLA.

Cite this article:

1- Introduction

In 2019, China unveiled a new missile in its arsenal: the Dongfeng-ZF(东风 ,Dōngfēng, "east wind") or DF-ZF. It is not just another missile in China's wide range of ballistic missiles, but a hypersonic glide vehicle (HGV). The DF-ZF is the first hypersonic missile type available to the Chinese armed forces and was developed entirely in China. The development of the DF-ZF has attracted worldwide attention, and especially after a launch in July 2021 in which the missile circled the globe before hitting its target.

HGVs are designed in a way that after being launched from high altitude they accelerate without self-propulsion to hypersonic speeds, harnessing the pull of gravity, and are able to manoeuvre and maintain a low trajectory until they reach their target. China has become one of the first countries to develop an HGV and, in addition, the DF-ZF model is capable of carrying a conventional or nuclear warhead.

According to two leading Chinese experts on hypersonic technology (Cai and Xu, 2012), the technological challenges involved in developing such weapon systems are diverse and highly complex. They cover the fields of overall integrated design technology; propulsion technology (not applicable to the DF-ZF in this case); materials, processing and manufacturing technology; test and verification technology; flight control, guidance and navigation technology; and flight demonstration and validation technology. The highly complex areas of research involved in hypersonic technology are the reason why only the armed forces of Russia, China and the United States currently operate such systems.

While China's seemingly sudden success in developing hypersonic weapons may come as a surprise to outside observers, hypersonic technology has been a key part of Chinese national security research initiatives for more than 30 years, such as programmes 863 or 973 from 1986 and 1997, respectively. In addition, an official US report from 2020 (Office of the Secretary of Defense) stated that many of the Chinese military's missile systems were comparable in quality to those of other top international producers, and that during 2019 China had launched more ballistic missiles in testing and training than the rest of the world combined.

The fact that the People's Liberation Army (PLA) has the capability to deploy a hypersonic missile system is highly relevant for two reasons. First, because some modern antimissile defence systems may become obsolete, leaving vulnerable what they are supposed to protect: military assets, facilities on national territory or even an aircraft carrier sailing across the ocean. It is precisely the ability to penetrate defensive systems that is the most important characteristic of hypersonic weapons and that is precisely what Chinese high command is pursuing (Zhao, 2020: 109-122). Second, and perhaps more importantly, the fact that the Chinese military posseses hypersonic missiles is evidence that China's defence innovation system is achieving significant results.

In the article by an Arms Control Association article (Bugos, 2022), US Senator Marsha Blackburn, was quoted as saying in reference to Chinese hypersonic weapons, "what we are concerned about is falling behind". Meanwhile, the *Financial Times* (Sevastopulo and Hille, 2021), US Congressman Michael Gallagher claimed that China's military has an increasingly credible capability to threaten the United States with both conventional and nuclear attacks, raising new questions about why China's military modernisation has been underestimated.

The modernisation of the PLA through technological advances is a high priority for the Chinese Communist Party (CCP) led by Xi Jinping. In a speech at the 19th CCP Congress in 2017, the leader put it this way:

> "In order to adapt to the trend of the global world military revolution and of national security needs, we will improve the quality and efficiency of national defence construction and the army [...] so that [...] by the mid-21st century, our people's armed forces have been fully transformed into world-class forces". (Xi, 2017).

Five years later, at the 20th CCP Congress in 2022, Xi Jinping expressed himself in a different way: "Quickly elevating our people's armed forces to world-class standards are strategic tasks for building a modern socialist country in all respects. We must apply the Party's thinking on strengthening the military [...] through reform, science and technology, and personnel training. (Xi, 2022).

From these words we can see that the Chinese authorities' motivation for transforming PLA into a world-class army has shifted from a goal to match the "trend of the new global military revolution" to, in five years' time, being "strategic tasks for building a modern socialist country in all respects".

Thus, the modernisation of the PLA through "reform, science and technology, and personnel training" is now central to the foundations of the Chinese nation, as expressed by its top political leader. Moreover, this goal is entrusted to the superiority of the political model led by the CCP: "The defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China; the greatest strength of the system of socialism with Chinese characteristics is the leadership of the Communist Party of China; the Party is the highest force for political leadership." (Xi, 2017).

The question of whether China, due to its political and institutional model, has advantages or disadvantages in achieving the desired military technological superiority is currently a subject of debate among experts. Some argue that the Chinese model allows for a greater ability to work in the same direction and generate synergies, but there are also those who argue that the Chinese innovation system is hamstrung by its leaders.

Some of the most critical of the Chinese model argue that innovation cannot be controlled and directed as the Chinese authorities claim in the military sphere. The American author Matthew Evangelista argued many years ago, in reference to

centralised and authoritarian countries, that "the centralised and secretive nature of the system discourages low-level initiative by inhibiting the free flow of information and imposing a hierarchy of military and research objectives" (author's own translation) (1989: 147-171).

Other authors make reference to this argument in the case of modern China. For example, British academic Kerry Brown (2014) argues that the Chinese authorities in trying to control and direct innovation in the defence field will end up slowing it down. Stephen G. Brooks and William C. Wohlforth (2016: 91-104) suggest that economic growth no longer translates as directly into military power as in the past and consider that it is now more difficult than before for rising powers to rise and established ones to fall.

On the other hand, there are other experts who take the opposite view. An example of this is the well-known political scientist Graham Allison (2021: 40) who believes that the many studies of the early 21st century were wrong to underestimate China's potential, because according to Allison, although the United States still retains military dominance, in some technological fields China is already on a par with the US.

Also Cordesman (2021) and Puglisi (2020: 74-91) also criticise the fact that it is still difficult to break out of certain paradigms that lead to the tacit assumption that the system represented by the US is superior to China in terms of generating innovation, rather than analysing in detail the comparative strengths and weaknesses of each system. This issue is very relevant today because, according to data from the OECD and echoed in a report by the European Commission, China overtook the EU as a whole in R&D investment in 2014 and is moving closer to the United States, which it already surpasses in terms of its share of the top 10 % of most highly cited publications (Preziosi *et al.*, 2019).

The research question of this article is whether China is demonstrating a capacity to generate world-class military technological innovation and what are the potential strengths and weaknesses of its defence innovation system. This will be done through the case study of the DF-ZF HGV development programme.

2. Theoretical framework

Innovation is understood as that which generates and implements new products, but also new ideas, processes and services. (Thompson, 1965: 1-20; West and Anderson, 1996: 680; Wong *et al.*, 2009: 238-251). Innovation is also associated with change (Damanpour, 1996: 693-716) or with that which makes new business opportunities possible (Du Plessis, 2007). As for the concept of defence innovation, these general ideas also apply, but need to be translated into their specific field.

The concept of the *military innovation triad* (Sapolsky *et al.*, 2009; Krepinevich, 1994: 30-42; Zabecki, 2005: 603-604; Cheung *et al.*, 2011; Ross, 2010) represented by a triangle with three vertices: technology, organisation and doctrine (Artículo 1 Figura 1).
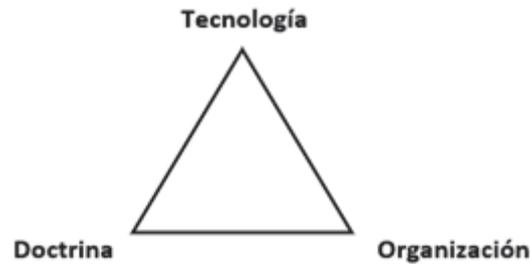
Figure 1. Military innovation triad.

Technology refers to the technical tools and resources mainly related to the weapon systems used by armies. *Organisation* refers to the structure of the armed forces and *doctrine* refers to the way in which the armed forces operate and use different weapons system. This concept is intended to explain that these three components must be in sync for there to be an effective increase in military capabilities and for military innovation to occur. Lack of progress in any of these elements renders any progress in the others ineffective. However, significant changes rarely occurs simultaneously in these three components, but rather, one leads the change while the others follow.

It is increasingly accepted that in modern armies, especially after the Gulf War, the change in technology is the leading factor that is driving and conditioning change in organisation and doctrine. (Sapolsky *et al.*, 2009; Krepinevich, 1994: 30-42; Zabecki, 2005: 603-604). None of these authors claim that there are no cases of innovation led by organisation and doctrine or that these aspects are not relevant. However, they do assert that, in the face of the rise of global technological development, these two factors tend mainly to adapt to the conditions imposed by one's own technology as opposed to that of the adversary.

Cheung, a great scholar of defence innovation, and technological innovation in particular, presents a definition of defence innovation that reflects the pre-eminence of technology:

> "Defence innovation is the transformation of ideas and knowledge into new or improved products, processes and services for military and dual-use applications. It refers primarily to organisations and activities associated with the defence and dual-use civil-military science, technology, and industrial base", (Cheung, 2014).

Having already defined what will be the object of study, the theories or models that explain how technological innovation is carried out in the field of defence and what are the elements or factors involved in this process are now collected.

One model that explains the factors involved in the ability of countries to produce military technological innovation comes from Schmid (2018), who proposes the *Threat-Capability Theory*. It posits that a state's production of military technology is primarily underpinned by two factors: the state's threat environment and its innovation infrastructure. The concept of the state's threat environment refers to security challenges, both internal and external, as well as the ability of the enemyy to impose negative consequences on the state's leadership.

Cheung is another author who has recently proposed an explanatory theory of a country's defence technological innovation capability (2021: 775-801). The model developed by this author is one of the most complete and focused on military technological innovation available; it also contains the state's threat environment as a determining factor, thus incoporating Schmid's theory into model. This model provides tools for analising the defence innovation system and the results it produces. For these reasons, and because it is one of the most modern models in the military field, Cheung's explanatory model is used in this research.

Cheung's model is based on the study of *national defence innovation systems*, which he defines as a network of organisations and institutions that interactively engage in science, technology and innovation-related activities to advance the development of defence interests and capabilities, especially in relation to strategic, defence and dual-use activities.

This model specifies categories of key factors that are seen as responsible for generating military technological innovation, as well as the relationships between them and a typology of innovation outcomes.

The factors and their categories are summarised in Table 1:

Categorías	Factores
Catalizadores	Apoyo de liderazgo de alto nivel; Entorno de amenazas externas; Oportunidades revolucionarias de avances de productos o procesos
Insumos (*Inputs*)	Transferencias de Tecnología Extranjera; Entradas de recursos (asignaciones del presupuesto estatal, inversiones en el mercado de capitales); Capital Humano; Integración Civil-Militar
Instituciones	Planes y Estrategias; Régimen Normativo; Incentivos; Normas de Gobernanza; Relaciones Estado-Mercado
Organizaciones	Corporaciones de Defensa, Organismos Estatales, Entidades Militares; Sistema de Investigación y Desarrollo
Redes y Subsistemas	Proceso de manufactura; Sistema de Adquisición; Redes sociales; Difusión
Contextual	Legado Histórico; Entorno Político Nacional; Nivel de desarrollo, país y tamaño del mercado
Resultados (*Outputs*)	Proceso de producción; Ventas; demanda del usuario final; Comercialización

Table 1. Categorised list of key factors for national defence innovation systems according to Cheung's model.

These categories of factors will be developed further in the analysis section in order to deal in depth with only those aspects that are most relevant to this research.

In addition, Cheung's model defines types of innovation outcomes which he names as follows: duplicative imitation, creative imitation, creative adaptation, crossover innovation, incremental innovation, architectural innovation, component innovation and disruptive innovation. The innovation type that a defence innovation system is capable of producing gives information about its maturity, with the first types being broadly indicative of a limited system and the latter types of an advanced system. The most advanced or top-tier type of innovation, which only countries with the most developed defence innovation systems are capable of producing, is disruptive innovation.

3. Methodology

This research begins with an introduction to the topic, its current relevance and the research question posed. It then presents some theories and models on this field of study in order to provide a framework for the research and tools for analysis and drawing conclusions.

This is followed by a look at the innovation programme that led to the DF-ZF HGV. After assessing some of the key aspects of it, the hierarchical structure of China's defence innovation system is outlined in two diagrams, while the elements involved of the programme's development are pointed out along with details on the role of the various organisations. A timeline of the programme's development is provided to complement this information.

Next, the research is analysed. For this purpose, the categorisation of factors in Cheung's model for defence innovation systems is applied. The analysis is carried out by looking into the outcome types and each factor category of the DF-ZF programme.

Finally, conclusions are drawn with the aim of providing relevant information on China's defence innovation system along with its strengths and weaknesses in relation to its ability to develop military technology.

4. The development the DF-ZF HGV programme

4.1. China and hypersonic weapons

Hypersonic is considered to be above Mach 5, i.e. exceeding five times the speed of sound, as shown in figure 2.
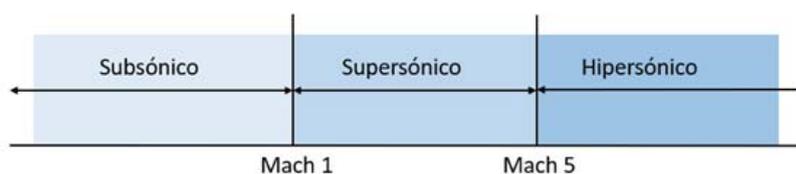
Figure 2. Speed ranges according to Mach number.

There are two main types of hypersonic missiles. Hypersonic glide vehicles (HGVs), which have no propulsion of their own and therefore need to be released from high altitude to accelerate using gravity and then glide using aerodynamics; and those with a supersonic combustion ramjet, otherwise known as a *scramjet*. These jets need to be at supersonic speeds to launch, so they need a rocket or supersonic aircraft to release them at these speeds in the atmosphere (not necessarily at high altitudes), and once operational they accelerate the missile up to hypersonic speeds. Hypersonic flight vehicles with a scramjet pose a greater technological challenge than HGVs.

The DF-ZF, being an HGV, does not have a scramjet, but is released at high altitude, above the atmosphere, by a DF-17 ballistic missile[1]. The DF-ZF HGV is capable of reaching and maintaining hypersonic speeds and manoeuvring to alter its trajectory as it loses altitude, as shown at

This system originated in the Cold War era, and consists of establishing in low orbit a weapon system that is capable of slowing down and falling to earth at the desired time, without completing a full orbit, just a fraction of it. This way, it is difficult to know the missile's target until it has begun its descent, the missile can be made to pass close to the poles to make detection more difficult, and it maintains a much lower maximum altitude than the apogee of intercontinental missiles that follow a ballistic trajectory.
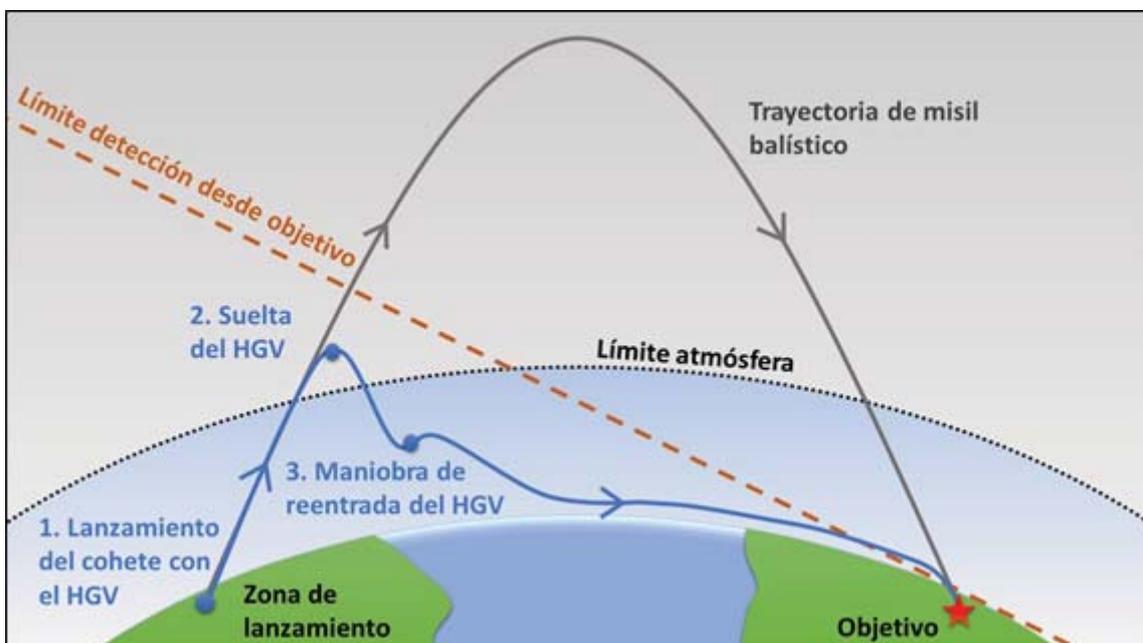
Figure 9. Image of the trajectory followed by an HGV.

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1 The DF-17 is a medium-range ballistic missile, which can be launched from a mobile platform and has a range of 2,500 km. The DF-ZF HGV is known to have been designed to be launched with this type of missile, but it is not known whether this missile was successful in launching the DF-ZF HGV into orbit or which ballistic missile or rocket carried out the 27 July 2021 launch.

It should be noted that intercontinental ballistic missiles fly at hypersonic speeds for part of their flight. What distinguishes the new generation hypersonic weapon systems is in their ability to maintain these speeds for extended periods of time and to achieve a high degree of manoeuvrability. To achieve such capabilities, the main technical challenges are integral design and materials technologies, testing, navigation and flight validation. (Cai and Xu, 2012).

Hypersonic flight through the atmosphere, even at high altitudes, generates enormous amounts of heat, which can reach 1,000°C. In addition, when returning through the atmosphere, the HGV experiences very intense forces, as well as when performing braking manoeuvres to improve its accuracy or evade interception by defensive systems. Therefore, hypersonic vehicles must have a very strong structure that remains sufficiently light and does not increase its cross-section excessively so as to reduce radar detection. In addition, atmospheric hypersonic flight generates plasma waves that interfere with the communication signals needed to control and correct the HGV's trajectory.

Although considered a cutting-edge technology, controlled hypersonic flight began being a subject of study in the US and USSR in the 1950s. It is estimated that Chinese state laboratories have been studying hypersonic flight as part of their ballistic missile development programme since the 1960s, but that this has remained at a theoretical level due to limited resources (Wood and Cliff, 2020).

Today, the United States has advanced hypersonic scramjet missile projects such as the X-51A, the first tests of which were conducted in 2010. Russia on the other hand has already developed at least two hypersonic weapon systems, the Kinzhal HGV in 2017 and the Avangard scramjet missile in 2019. Russia began testing hypersonic missiles in 2011 (Solem and Montague, 2016: 6-11). In contrast, the first test of the Chinese DF-ZF HGV was conducted in 2014[2] and in 2019 it was declared operational by the Chinese authorities. The DF-ZF HGV development programme has been the shortest of any hypersonic missile programme to date, from the start of flight testing to being operational. In addition, China is developing a hypersonic scramjet-flight vehicle called Xingkong-2(星空,Xīngkōng, "starry sky"). A test flight of more than 400 seconds was conducted in August 2018, and it is expected to be operational for the PLA around 2025 (Hwang and Huh, 2020: 731-743).

A special feature of the DF-ZF HGV development programme was the parallel need for the development of hypersonic wind tunnel facilities. Numerous wind tunnels have been built in China over the past decade, but it is important to highlight JF-12, completed in 2017 and currently the largest and best performing wind tunnel in the world (Wood and Cliff, 2020).

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2   The Chinese authorities did not release any information on the first DF-ZF test; it was the US Department of Defence that named the detected prototype missile WU-14, for having been launched from a facility in Wuzhai County in 2014. For this reason, information on the DF-ZF can be found under the designation WU-14.

4.2. The programme within China's defence innovation system

Figures 4 and 5 show a simplified organisation chart of China's defence innovation system. They show China's most important organisations, institutions and state-owned enterprises in the field of defence technological innovation, in descending order from the leadership of the CCP and the State Presidency.

The reason there are two organisational charts is because the governmental structure of the country is divided into two, the Party and the State. In China, the CCP is the dominant body and holds political power. However, ministries and institutions are embedded in the hierarchy of the Presidency, under the State Council. On the other hand, the Central Military Commission (CMC), from which the PLA's structure derives, is under the direct aegis of the CCP and its General Secretary. In theory, the State Council also has control over the CMC, but this is merely symbolic.

The breakdown in the structures shown in Figures 4 and 5 depended on the overall degree of need to show the constituent entities. For this reason, among the PLA's branches, only the Strategic Support Force is broken down, to show its high academic research activity as well as its involvement in China's space programme. In the state-dependent structure, the level of ministry, academy or public enterprise is shown, except in the case of the Ministry of Industry and Information Technology, which houses some of the most relevant entities for China's military technological innovation. These figures do not show all of China's ministries, academies, universities, CMC bodies and state-owned enterprises, but only those bodies where collaboration and participation in China's defence innovation system is evident.

Within these structures, the bodies highlighted in orange are those entities directly involved in the DF-ZF HGV development programme and are explained below. Agencies not highlighted in orange are those that are part of China's defence innovation system but have not contributed directly to the DF-ZF programme.

Figure 4. (A) China's defence innovation system, CCP hierarchy.
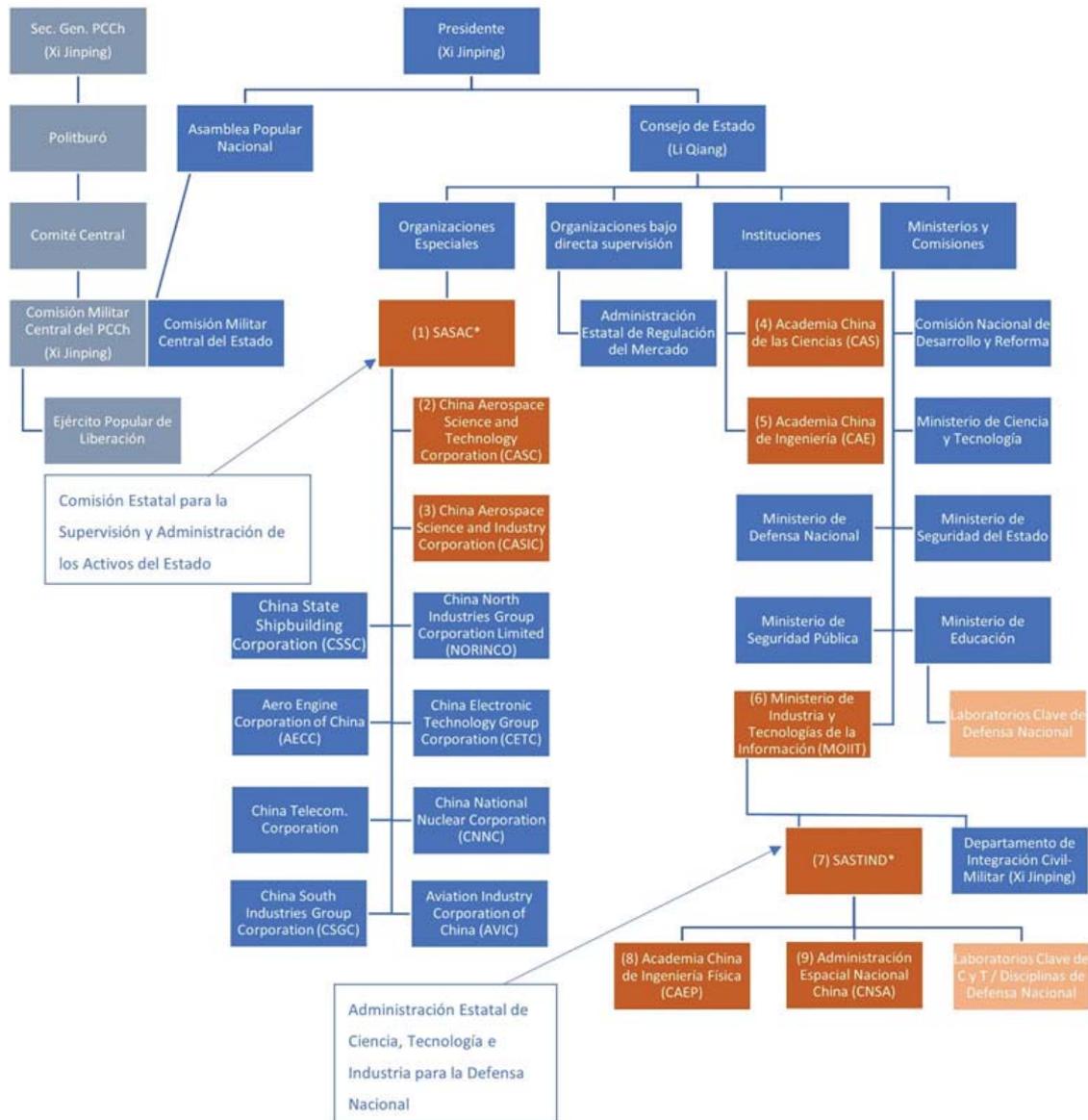
Figure 5. (B) China's defence innovation system, State Presidency hierarchy.

4.2.1. Structure A: CCP hierarchy[3]

1. Central Military Commission of the CCP (CMC) / 中国共产党中央军事委员会

It is the highest national defence organisation of the People's Republic of China and is headed by Xi Jinping.

2. People's Liberation Army (PLA) / 中国人民解放军

The Chinese Armed Forces, broken down into six branches of service.

3. CMC Science and Technology Commission / 中央军事委员会科学技术委员会

It organises and guides military technological innovation by determining long-term priorities. It has supposedly taken over the leadership of the DF-ZF project in the armed forces, as well as the coordination of efforts in the various research fields (Wood and Cliff, 2020).

4. National University of Defense Technology (NUDT) / 国防科技大学

Under the direction of the CMC and the supervision of the Ministry of National Defence and Ministry of Education, the National University has received substantial investments from the army and the state. NUDT's research includes basic research, advanced technology research and defence application research. It was instrumental in the development of the Tianhe-2 supercomputer. Its staff includes members of the Chinese Academy of Sciences and the Chinese Academy of Engineering, as well as personnel from the "Ten Thousand Talents Plan", which is a central government programme to recruit science and technology experts from overseas, mainly from Chinese communities.

In the case of the DF-ZF programme, the College of Aerospace Science and Engineering (CAESE)/ 航天科学与工程学院) at NUDT is said to have been a key academic institute for materials, design and propulsion research. In addition, Wang Zhenguo, deputy chief engineer of China's "Hypersonic Flight Vehicle Science and Technology Project" (高超声速飞行器科技工程), was a student and faculty member for many years (Wood and Cliff, 2020).

5. PLA Rocket Force (PLARF) / 火箭军

This is the PLA branch that operates DF-17 and DF-ZF assets. However, no involvement in the innovation process of the programme was sought beyond the use of the systems. Nor has there been any information on the involvement of other PLA service branches in the programme, including the Strategic Support Force despite the fact that the latter has space-related research institutions.

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3   As there are cases of different or erroneous translations and even mistranslations between agencies with similar names for the agencies analysed, the names in their most frequent English version as well as their official Mandarin Chinese names are given.

6. Further comments on structure A:

No remarks have been found on any involvement or directives issued by the Central Commission for the Development of Military-Civilian Integration, which has been headed by Xi Jinping himself since its creation in 2017 and which tends to be given a lot of weight as the most important body under the civil-military merger policy.

Nor has there been any involvement detected of other relevant CMC bodies such as the Equipment Development Department, which is said to be responsible for the research, development and procurement of weapons systems for the PLA.

4.2.2. *Structure B: State hierarchy*

7. State-owned Assets Supervision and Administration Commission (SASAC) / 国务院国有资产监督管理委员会

It manages state-owned enterprises for which it appoints senior executives, approves mergers and securities or asset sales, and drafts regulations.

8. China Aerospace Science and Technology Corporation (CASC) / 中国航天科技集团公司

This is a large state-owned company with a multitude of defence and space subsidiaries and is, in fact, the prime contractor for China's space programme. It was originally founded in 1956 and after numerous reforms became the company it is today at the end of the 1990s. CASC is the company where the DF-ZF HGV and the DF-17 rocket were developed and produced, and where the Xingkong-2 hypersonic scramjet missile prototype is being developed. It is therefore the most important body in China's hypersonic programme. Two entities within CASC are responsible for the DF-ZF programme:

First, the China Academy of Aerospace Aerodynamics (CAAA) / 中国航天空气动力技术研究院,also known as: the China Academy of Aerospace Technology / 11th Academy of CASC / 10th Research Institute of CALT / Near Space Flight Vehicle Research Institute / Beijing Institute of Aerodynamics (BIA) / 701 Institute of CASC.

According to a report for the US-China Economic and Security Review Commission (Stokes and Cheng, 2012), the CAAA was reorganised in 2004 with the mission to focus exclusively on hypersonic vehicles operating in the near-space domain (altitude of between 20 and 100 km). The DF-ZF hypersonic vehicle, as well as the Xingkong-2 prototype, was developed at the CAAA. To this end, the CAAA operates at least three hypersonic wind tunnels that help determine the properties of aircraft travelling at hypersonic speeds. These are FD-02, FD-03 and FD-07. The FD-02 is believed to be capable of generating a simulated range of Mach 3.5 to 8, while the FD-03 and FD-07 can simulate speeds between Mach 5 to 10 and Mach 5 to 12, respectively (Ng, 2022).

The second entity involved is the China Academy of Launch Vehicle Technology (CALT) / 中国运火箭技术研究院, also known as: CASC First Academy.

CALT is China's largest entity involved in the development and manufacture of space launch vehicles and ballistic missile systems. It has developed the Chinese manned space programme's Long March rockets, as well as the DF-17 ballistic missile, capable of carrying the DF-ZF HGV. Through CALT, launch tests of the DF-ZF HGV have been conducted, all from the Jiuquan Satellite Launch Center facility in Wuzhai County, which is also one of the launch sites for the Long March rockets.

9. China Aerospace Science and Industry Corporation (CASIC) / 中国航天科工集团有限公司

CASIC is the sister company of CASC, from which it was spun off in 2001 in order to increase competitiveness and with which it shares the defence and space business. CASIC's involvement in the DF-ZF HGV programme appears to boil down to providing the fuel for the launch rockets through the CASIC Delivery Technology Technical Research Institute (Ng, 2022).

10. Chinese Academy of Sciences (CAS) / 中国科学院

It functions as the national scientific think tank and academic governing body, providing advisory and evaluation services on issues such as the national economy, social development and the progress in science and technology. With hundreds of institutes and tens of thousands of researchers, it is the world's largest research organisation and has been ranked the world's largest research institute by Nature Index.

CAS participated in the DF-ZF programme through its Institute of Mechanics and more specifically from one of its research centres, the State Key Laboratory for High Temperature Gas Dynamics (LHD) / 高温气体动力学国家重点实验室).

According to the Institute's website, the LHD is an open research base dedicated to innovative theoretical research, wind tunnel experiments and digital simulations on high-temperature gas dynamics and aims to investigate hypersonic boundary layer characteristics and aerodynamic configuration theory to solve integrated vehicle optimisation and the flight control of hypersonic vehicles.

Since 2012, the CAS Institute of Mechanics has also had the JF12 hypersonic wind tunnel, the world's best performing tunnel in terms of high temperatures and dwell time. The institute is also developing the JF22, which will further increase the possibilities for hypersonic flight research. According to an article in the Center for Strategic and International Studies journal, the Institute of Mechanics also conducted high-altitude balloon drop tests of different models of hypersonic vehicle profiles in 2018 (Molenda, 2018).

The LHD and its wind tunnel research is considered to have been a key component to the Chinese hypersonic flight vehicle project and thus the DF-ZF HGV development programme. In 1999, Jiang Zonglin, one of China's foremost experts in hypersonic technology, was brought back to China under the "Hundred Talents Programme",

and took over as director of the LHD. He is credited with the conception, design and implementation of the JF12 wind tunnel (Wood and Cliff, 2020) (Wood and Cliff, 2020).

11. Chinese Academy of Engineering (CAE) / 中国工程院

It is the national engineering academy of the People's Republic of China and provides consultancy services to the State on major programmes, plans, guidelines and policies. The main contribution of this academy is believed to have been in the development of heat resistant ceramics. In 2017 a research team from the State Key Laboratory for Powder Metallurgy / 粉末冶金国家实验室 at the University of Central South China led by two CAE members announced a breakthrough in ceramic coatings needed for hypersonic vehicles. The team discovered a material composed of zirconium, titanium, boron and carbon capable of withstanding temperatures of up to 3,000 degrees Celsius (Xinhua News Agency, 2017).

12. Ministry of Industry and Information Technology (MOIIT) / 中华人民共和国工业和信息化部

It manages the country's industrial branches and the information industry. It determines industrial planning and promotes the development of major technological equipment and innovation in China's communication and information security sector. Relevant organisations such as SASTIND and the Civil-Military Integration Department (军民结合推进司)report to the MOIIT. The Civil-Military Integration Department is directly chaired by Xi Jinping, highlighting the importance of the Chinese government's civil-military fusion policy, but it is not known whether it has had any involvement in the DF-ZF programme.

13. State Administration of Science, Technology and Industry for National Defence (SASTIND) / 国家国防科技工业局

It is considered one of the most influential bodies in the promotion and application of China's scientific and technological initiatives in the field of defence. Its main responsibilities are nuclear weapons, aerospace technology, aviation, armaments, shipping and electronics. It aims to strengthen the armed forces with modern and advanced equipment.

SASTIND has contributed to the DF-ZF programme, firstly, through programmes to establish national military research laboratories in civilian and military universities; secondly, through the Chinese Academy of Engineering Physics (8); and thirdly, through the Chinese National Space Administration (9).

There are three types of national research laboratories: National Defence Science and Technology Key Laboratories(国防科技重点实验室), National Defence Key Discipline Laboratories(国防重点学科实验室)and the National Defence Key Laboratories(教育部国防重点实验室). SASTIND works to establish defence research laboratories, fund defence-related research areas and facilitate participation in military projects. It is one of the main tools to foster the integration of universities

into the defence research system. The first type of the above laboratories is the best funded and most prestigious and the third one is under the Ministry of Education rather than SASTIND, but with identical objectives (Joske, 2019: 8-11).

14. China Academy of Engineering Physics (CAEP) / 中国工程物理研究院

CAEP is the main research and production centre for China's nuclear weapons programme and is overseen by SASTIND and CMC. Regarding the DF-ZF programme, it should be noted that this academy has a hypersonic wind tunnel facility at the Mianyang complex with up to eight large tunnels which is where research for Chinese hypersonic vehicle programmes is believed to have been conducted (Wood and Cliff, 2020). In addition, the DF-ZF HGV is said to have a nuclear warhead-carrying capability, so CAEP's involvement in this area cannot be ruled out.

15. China National Space Administration (CNSA) / 中国国家航天局

This body is responsible for civil space administration and international space cooperation. It is not responsible for the implementation of space programmes, which falls instead to CASC and the China Manned Space Agency (which reports to the CMC).

CASC and CNSA have their origins in a common organisation called China Aerospace Corporation, which split in the late 1990s, giving rise to these two separate entities. This explains why CASC is CNSA's primary contractor, why the DF-ZF programme tests was conducted at CNSA's Jiuquan Satellite Launch Center facility, and why CASC conducted a test in July 2021 that placed the DF-ZF HGV into fractional orbit.

16. Further comments on structure B:

There are some indications that China's defence innovation system has benefited from cooperation with other countries. For example, it is known that in 2017 the University of Central South China announced a collaborative agreement with the University of Manchester in the UK to jointly develop a new type of ceramic coating material for use in hypersonic aircraft and spacecraft (Joske, 2018).

However, it is asserted that, in general, the most relevant patent and publication activity on China's hypersonic flight vehicle programme is concentrated in China's own domestic R&D ecosystem rather than the result of international collaborations (BluePath Labs and Chambers, 2022).

4.3. Programme timeline

The "Hypersonic Flight Vehicle Science and Technology Project" (高超声速飞行器科技工程) was initiated as part of the "National Medium and Long-Term Science and Technology Development Plan (2006-2020)" (国家中长期科学技术发展规划纲要). Just two years earlier, in 2004, a group of senior Chinese aerospace engineers,

led by veteran researcher Liu Xingzhou, had made a proposal to the high command on the development of hypersonic flight vehicles. Some reports also state that hypersonic research began to be funded with the establishment of the 863 and 973 programmes, so called ecause they were established in March 1986 and 1997 respectively, well before the official start of the hypersonic aircraft project (Wood and Cliff, 2020).
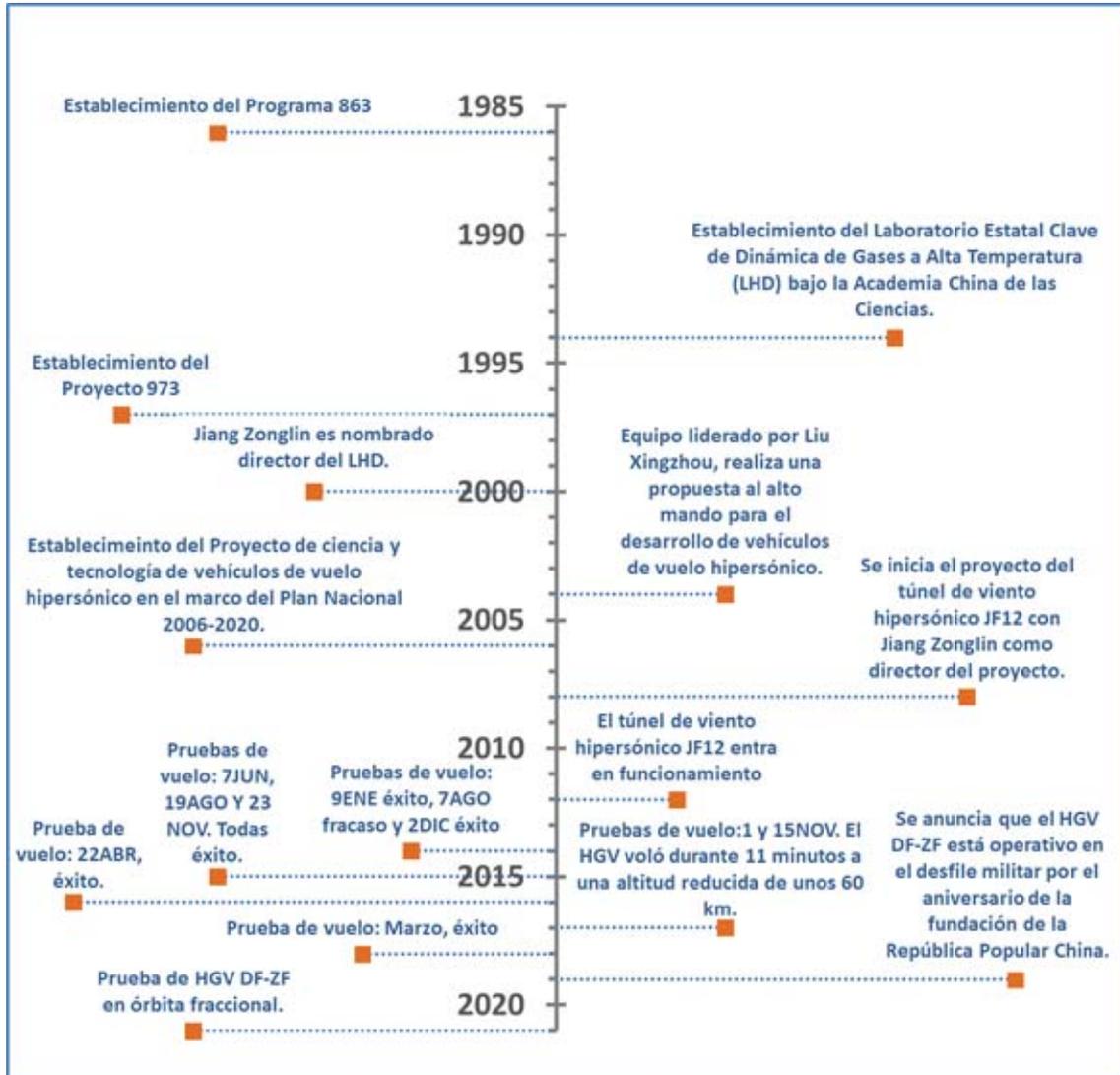
Figure 6. Timeline of the DF-ZF HGV development programme.
Note: Author's own work based on data from China Brief, Washington Free Beacon, China Aerospace Studies Institute and The Diplomat.

5. Analysis based on Cheung's factor model

In order to carry out the analysis of this research, Cheung's model of national defence innovation systems (2021: 775-801) will be used as an analytical tool in this research. This model specifies a set of categories of key factors defined as responsible for the generation of military technological innovation, as well as the relationships between them and the types of innovation outcomes.

The types of innovation outcome of the programme that led to the DF-ZF HGV are analysed, followed by each of the key factor categories. The analysis is limited by the amount of information available for this case study.

5.1. *Innovation outcome types*

Cheung's model defines an eight-level typology of innovation outcomes, which he calls in the following terms: duplicative imitation, creative imitation, creative adaptation, crossover innovation, incremental innovation, architectural innovation, component innovation and disruptive innovation. The type of innovation that a defence innovation system is capable of producing is indicative of its maturity, with the first types being broadly indicative of a more limited system and the latter indicative of a more advanced system.

The DF-ZF programme has resulted in the development of a ballistic missile system with a hypersonic glide vehicle (HGV), which has been successfully tested and put into operation. Moreover, only five years separated the start of the first flight tests of this programme on 9 January 2014 and the 1 October 2019 announcement that the DF-ZF HGV was operational, making it the shortest known hypersonic missile programme. The programme also left behind a range of cutting-edge infrastructure in China for hypersonic technology research such as wind tunnels.

The technology developed for this weapon system consisted of an increase in technique and knowledge in several scientific areas, in particular: heat management, aerodynamics, G-force resistance and navigation. It ought to be recalled that many of the ballistic missiles previously developed by China experienced hypersonic conditions for parts of their flight, so these areas of research are not new. What distinguishes DF-ZF HGV is its ability to maintain hypersonic speeds for extended periods of time and to have a high degree of manoeuvrability and control, which has required significant scientific advances.

The DF-ZF, being an HGV, does not have a scramjet, which would be a somewhat groundbreaking development, as scramjets are a major challenge and a novelty among modern weapon systems. China is making progress in the development of hypersonic scramjet vehicles, but today the hypersonic weapon system China has in operation is of the less complex type, the HGV.

For these reasons, it can be concluded that the DF-ZF programme presents two types of innovation outcomes as defined by Cheung. They are incremental innovation and component innovation.

For Cheung, incremental innovation, fifth on the scale of eight, is the upgrading or limited improvement of existing locally developed systems and processes. Incremental innovation can also be the gradual upgrading of a system through the introduction of improved sub-systems. By contrast, component innovation, the seventh on the scale of eight, involves the development of new component technology that can be

incorporated into the existing system architecture. Component innovation emphasises hard innovation capabilities, such as advanced R&D facilities, a cadre of experienced scientists and engineers, and large- investments.

The DF-ZF programme would be close to but falls short of the eighth and the most advanced level of innovation, disruptive innovation. For Cheung, this requires major breakthroughs in both technology and new component architecture and can only be achieved by countries with world-class research and development capabilities and personnel coupled with large financial resources and a willingness to take the risk of failure.

It is therefore considered that in the case of the DF-ZF programme, China's defence innovation system has demonstrated a high capacity for innovative results, achieving innovation of a complexity level of 5-7 out of 8.

5.2. *Catalytic factors*

Catalytic factors are top-level leadership support, external threat environment and revolutionary product or process breakthrough opportunities. According to Cheung, catalysts are the spark that ignites the most disruptive innovation.

These factors are mainly external to the defence innovation system and would be the subject of a whole investigation in their own right, so only some of the most relevant aspects for this case study will be outlined.

There is no doubt that technological advances in the hypersonic field in China enjoy high-level Chinese support. This is evidenced by the continuous approval of high-level technology development plans and programmes and the allocation of large sums of money, which are reflected in the large number of participating organisations and companies involved, as well as the developed infrastructure of world-class wind tunnels.

In terms of the external threat environment, the installation of anti-missile systems in areas close to China such as South Korea, Japan and the island of Guam has led China to perceive threats to its interests (Solem and Montague, 2016: 6-11). These facts, according to Cheung's model and Schmid's Threat-Capability Theory, have served as a catalyst for China's defence innovation system in the development of hypersonic technologies. The DF-17 hypersonic missile is designed to strike enemy bases and fleets in the Western Pacific, according to a US Department of Defense report on security and the Chinese military to US Congress (Office of the Secretary of Defense, 2022).

In terms of breakthrough opportunities for innovation, the closest in this respect can be considered to have been the advances in wind tunnel performance that have enabled vigorous research and advancement in the science around hypersonic technologies.

The catalytic factors have therefore been optimal for China's defence innovation system to develop the DF-ZF programme.

5.3. *Input factors*

The input factors are foreign technology transfers, resource inputs (state budget allocations, capital market investments), human capital and civil-military integration. They are therefore the contributions that flow into the defence innovation system.

In the case of the DF-ZF programme, foreign technology transfer made a marginal contribution to the programme, with only one known international university collaboration, between the University of South Central China and the University of Manchester in the UK. The programme was clearly funded by public money and implemented by public insititutions. Following Cheung's model, the big missing element in this project was private equity investment. In the case of the DF-ZF programme, China's defence innovation system, at least at a high level, had little of the dynamism and efficiency that private sector involvement brings. It is not known how much public money was invested in the project, but the public money was effective and the time spent on the DF-ZF programme was relatively short.

In terms of human capital, it has become clear that Chinese talent recruitment programmes abroad have been important, for example, in the research staff of NUDT, CAS and more specifically in the recruitment of the expert Jiang Zonglin to head the State Key Laboratory of High Temperature Gas Dynamics, as well as the JF12 hypersonic wind tunnel development project. On the one hand, this shows that there is a need in China to recruit experts who have been trained outside the country, but on the other hand, it also shows that there are effective strategies in China to bring back this talent.

It is not known whether there were any initiatives for civil-military integration within the DF-ZF programme. However, there is evidence of the involvement of some defence research laboratories from civilian universities, such as the State Key Laboratory for Powder Metallurgy; the the involvement of the NUDT, which collaborates on dual-use programmes such as supercomputers; and the involvement of CALT, which produces the Long March rockets for China's manned space programme as well as the DF-17 ballistic missiles that carry the DF-ZF HGVs. The laboratories set up by SASTIND and the Ministry of Education are one of the main tools for including universities and different civilian agencies in the military sphere (Joske, 2019: 8-11).

According to Cheung's theoretical framework, developing defence innovation systems are strongly characterised by technology transfer and factors that emphasise the importance of the role of the state, such as government agencies. In contrast, an advanced defence innovation system is characterised by bottom-up factors such as the primacy of the market, incentives that support risk-taking, intellectual property

protection and organisations that promote market and research activities such as companies and universities.

China's national defence system in the case of the DF-ZF programme does not fit either of these two definitions, as neither technology transfers nor a private market push played a major role. China's national defence system has been successful in developing this programme despite not having significant private company participation and relying almost entirely on public organisations. Moreover, they have been able to generate innovation without the need for high technology transfer inputs.

5.4. *Institutional factors*

Institutional factors are plans and strategies, regulatory regimes, incentives, governance rules and state-market relations.

China's defence innovation system is very much determined by China's politics. The CCP exercises control over the system, dictates priorities and distributes the means to carry them out. To this end, the Chinese authorities are launching both temporary and open-ended technology development programmes. The DF-ZF programme is a clear result of the National Medium- and Long-Term Science and Technology Development Plan (2006-2020) and the resulting Hypersonic Flight Vehicle Science and Technology Project.

In this case, state-market relations do not seem to have had much influence and there is a clear dominance of the government's top-down initiative.

5.5. *Organisational factors*

Organisations are the main actors within the defence innovation system and are formal structures that are deliberately created with an explicit purpose. They include companies, govenrments, universities, research institutes and a varied range of other organisational entities. Private individuals may also be involved.

As shown in Figures 4 and 5, the organisations involved in the DF-ZF programme were government agencies in different fields. It is noteworthy that both CMC and State Council bodies were involved in the development of this programme, which shows coordination between the two hierarchies.

Within the PLA, the involvement of coordinating bodies and academic bodies can be observed, but not that of the Missile Force, which is responsible for operating the system. Under the State Council, there is the involvement of coordinating bodies, ministries, multiple academic bodies, research laboratories and the main entity in charge of developing the DF-ZF HGV, the large state-owned company CASC.

It is worth noting that within the CASC, the CAAA research body was formed in 2004; specialising in near-space hypersonic vehicles, reflecting the importance given to this field by Chinese authorities and the flexibility of state-owned companies in terms of reorganization.

Once again, the big missing actor in this picture is the private sector, at least at a high level of involvement. It is striking that despite this shortcoming, considered by authors such as Cheung to be one of the main elements of an advanced defence innovation system, the Chinese programme has achieved a very high level of success.

5.6. *Networks and sub-systems*

Social, professional or virtual networks allow actors, especially individuals, the means to connect with each other within and beyond defence innovation systems, both nationally and internationally. Networks provide effective channels for sharing information, often more quickly and comprehensively than traditional institutional links, and help overcome barriers to innovation such as rigid compartmentalisation.

By its nature, it is very difficult to access information about the internal workings of public departments and the ways in which they interact with other public entities in the context of China's defence innovation system.

Based on the contributions that can be observed from various entities to the DF-ZF programme, it can be seen that there is a scientific communication and collaboration network that is sufficiently effective in bringing together efforts in the same field and creating synergies for the development of defence technology. Significantly, collaboration was achieved from PLA entities under the CMC and state-owned enterprises, academia and ministries under the State Council, which defies the existence of compartmentalisation in China's defence innovation system. In addition, the success of some Chinese state programmes such as overseas talent recruitment and the establishment of research laboratories with defence-related fields in universities and other civilian public bodies can be noted.

5.8. *Contextual factors*

This category covers the set of different factors that influence and shape the overall defence innovation environment. Contextual elements that exert a strong influence include historical legacies, the domestic political environment, the level of development, and the size of the country and its markets. Contextual factors, like catalysts, are external to the defence innovation system and could be studied extensively. For the purposes of the analysis of this case study, only some of the most relevant aspects will be highlighted.

In the introductory section of this research, some words from Xi Jinping's speeches at the last two CCP congresses in 2017 and 2022 were laid out. Xi Jinping clearly pointed to the central role of the CCP in the country's politics as the distinguishing feature of the Chinese political system and as an element of superiority over others. Furthermore, it can be seen that the importance of improving the country's military capabilities through technology has been maintained from 2017 to 2022 to form part of the "strategic tasks for building a modern socialist country in all respects".

Some other relevant contextual data on China's defence environment is its defence budget, which has grown along with the size of its economy. Despite having kept its defence spending at a few fractions below 2 % of its GDP, over the past decades China's defence budget has grown to be the second largest in the world, although apparently still far from the much higher US spending, according to Stockholm International Peace Research Institute (SIPRI) databases.
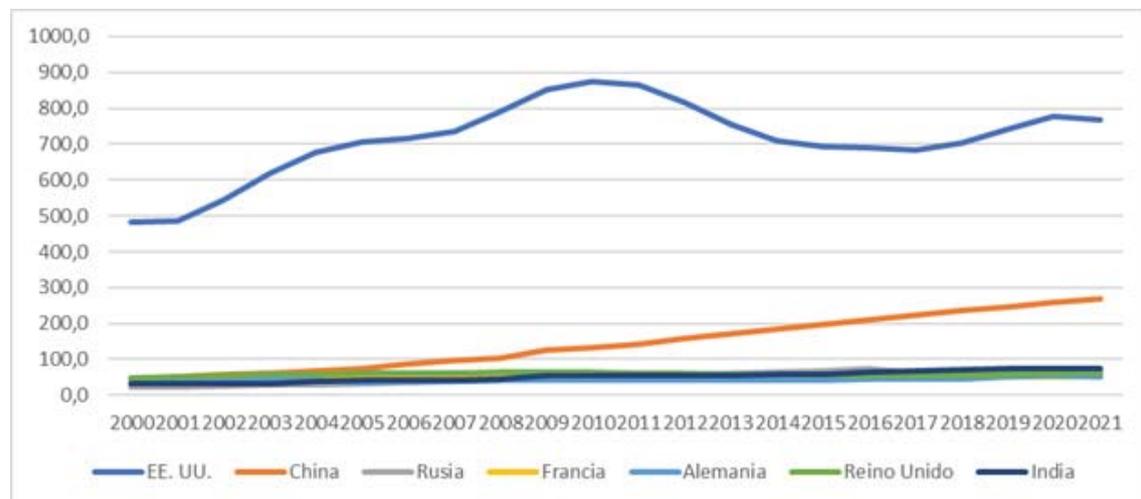
Figure 7. Military expenditure for the period 2000-2021 in billions of dollars based on the value of the dollar in 2020.
Note: SIPRI makes its own estimates of national military spending that do not always agree with officially published data, as is the case for China. Data from www.sipri.org
Nota. SIPRI hace sus propias estimaciones del gasto militar nacional que no siempre concuerda con los datos publicados oficialmente, como es en el caso de China. Datos de: www.sipri.org

While, in simple monetary terms, China's military spending appears much lower than that of the United States, under the Purchasing Power Parity (PPP) exchange factor comparison, which takes into account the difference in operational and personnel costs in each country, Peter Robertson (2019) of Western Australia University, stated that China's budget in 2019 was about 75 % of that of the US.

One of the few official publications of China's defence budget breakdown comes from the 2019 China Defence White Paper, which revealed how previous years' budgets were broken down into three main categories: personnel costs, training and maintenance costs, and equipment costs.

Año	Costes de personal		Costes de entrenamiento y mantenimiento		Costes de equipamiento	
	(MM¥)	(%)	(MM¥)	(%)	(MM¥)	(%)
2010	185.931	34.9	170.047	31.9	177.359	33.2
2011	206.506	34.3	189.943	31.5	206.342	34.2
2012	195.572	29.2	232.994	34.8	240.626	36.0
2013	200.231	27.0	269.971	36.4	270.860	36.6
2014	237.234	28.6	267.982	32.3	323.738	39.1
2015	281.863	31.0	261.538	28.8	365.383	40.2
2016	306.001	31.3	266.994	27.4	403.589	41.3
2017	321.052	30.8	293.350	28.1	428.835	41.1

Table 2. Official publication of the breakdown of China's defence expenditure (2010-2017) (in billions of RMB). Note. Source: Information Office of the State Council of the People's Republic of China (2019). China's National Defense in the New Era.

Significantly, the equipment item is the only item that has increased as a proportion of the budget, rising by almost 8 % in 7 years. This seems to indicate that the Chinese authorities' priority to better equip their armed forces is materialising and is reflected in budget allocations.

5.8. Output factors

The output factors are production process, sales, end-user demand and marketing. This category is responsible for determining the nature of the products and processes coming out of the defence innovation system.

In the case of the DF-ZF programme, the sole user is the PLA Missile Force, which would use it as a weapon system to provide the Armed Forces with the capability to penetrate defensive systems.

It cannot be excluded that this system could later be commercialised or that some of the technologies developed within this project could be used in other weapon systems for commercial purposes, even though these would not fall within the programme's main objectives. According to SIPRI data, Chinese-made missile exports accounted for 29 %, 12 % and 13 % of the total value of China's military exports in 2000, 2010 and 2020, respectively.

6. Conclusions

The analysis and conclusions of this research are subject to the information available and collected for this case study. The lack of transparency in this area was an obstacle to research, but also an opportunity to generate original ideas.

An analysis of the DF-ZF HGV development programme shows that both catalytic and contextual factors, which are external to China's defence innovation system, were

very favourable to the development of the project. Some of the key factors that have stimulated innovation have been the strong support at the highest political level, the perception of external threats from China that this programme addresses, and technological advances in the construction of wind tunnels that have allowed the hypersonic research to be accelerated.

In addition, the political backdrop, in general and the military context, in particular, have also been propitious for the proper development of the programme. Xi Jinping declared in 2022 that advancing the country's military capabilities through technology was one of the "strategic tasks for building a modern socialist country in all respects". Moreover, it is fact that Chinese military spending in recent years has increased robustly, keeping pace with China's economic growth, and that this spending is increasingly focused on weapons systems.

The DF-ZF programme was therefore conducted under external conditions that were very favourable to China's defence innovation system.

However, the results achieved in the DF-ZF programme do not amount to breakthroughs in technology, but they do represent incremental and component breakthroughs. According to Cheung's model, this programme would have reached an outcome-type level of 5-7 out of 8, and would be just one step away from achieving breakthrough innovation, the most complex and advanced type.

The development of the DF-ZF HGV has required significant advances in science and technology in areas such as the resilience of materials, aerodynamics and navigation. However, the DF-ZF HGV does not represent a technology milestone that announces that China is leaving other powers behind. Potential future developments in hypersonic scramjet flight vehicles would represent a higher type of outcome than that achieved by this programme, due to its greater complexity and novelty.

The timeline of the programme is also a relevant element. The DF-ZF HGV development programme, from start of flight testing to operational use, was the shortest of the hypersonic missile system development programmes. This is a positive sign for the capability of China's defence innovation system. It will be important to see how quickly China can bring the Xingkong-2, for which flight testing began in 2018, up to speed.

In the DF-ZF programme, the contributions of technology transfers, typical of a developing system, were not significant, but neither was there a high participation of private companies, typical of an advanced system, according to Cheung's model. The Chinese system is different, but it is undoubtedly capable of achieving innovation results. The analysis in this case study shows that the general approach to China's defence innovation system has been a model of selective state mobilisation complemented by dynamic tools. In this system, the Chinese authorities mobilise and concentrate resources in a select group of sectors and agencies through a top-down state allocation process, usually based on a series of technology development plans; but this model is complemented by system-performance tools such as civil-military fusion, talent acquisition and research programmes and policies.

The most important weakness observed in China's defence innovation system in the case of the DF-ZF HGV development programme has been the limited high-level involvement of the private sector, which according to Cheung's model should be a major element.

In contrast, other factors have been observed that are dynamic tools which could be considered strengths of China's defence innovation system. These are the civil-military fusion policies, state programmes for attracting talent from abroad and the programmes for establishing military research laboratories in public universities or other civilian organisations that are carried out by SASTIND.

In the DF-ZF programme, the important contributions of the military university NUDT, the CAS Institute of Mechanics, the state company CASC and the relations with the CNSA space programme, all of which are involved in civil-military dual-use technology, stand out as examples of civil-military fusion. Also the fact that the main hypersonic wind tunnels were located in military and civilian research organisations such as the CAAA of the CASC, the Institute of Mechanics of the CAS or the CAEP of the SASTIND.

From the state talent recruitment programmes it has been identified that NUDT has benefited from the "Ten Thousand Talents Plan" and the LHD Laboratory of the CAS Institute of Mechanics from the "One Hundred Talents Programme". The recruitment of the expert Jiang Zonglin through this programme to lead the LHD Laboratory and the development of the JF-12 wind tunnel deserves being highlighted.

Some of the most prominent laboratories in the DF-ZF programme with military research links were the LHD Laboratory at the CAS Institute of Mechanics and the State Key Laboratory of Powder Metallurgy at the University of Central South China.

Within the country's complex and extensive public sector fabric, China's defence innovation system has been able to overcome compartmentalisation and achieve inter-agency collaboration to generate synergies between state-owned enterprises, national academies,

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Foresighting cosmic impact threat: planetary risk scenarios and legal-political challenges

Abstract

The Earth could once again face the impact of a large object from the cosmos. This plausible, if unlikely, scenario exposes us as humanity to an unprecedented paradigm. The development of planetary defencee strategies becomes essential, as does the need to define their regulatory framework for enabling its legal and political articulation while respecting human rights. This paper offers a prospective and transdisciplinary analysis based on a rigorous review of the current scientific-technical capabilities of asteroid mitigation. In turn, it examines the political-legal and bioethical implications of various scenarios derived from the threat of cosmic impacts. Through an extrapolation exercise, we propose the figure of the impact refugee and the deterritorialized state by adopting climate refugees and environmental risks as a reference. Taking into account geopolitical conflicts and the multiplicity of actors involved, the article concludes with the need to generate a prevention system that guarantees democratic for decision-making procedures in the face of catastrophic scenarios.

Keywords

Planetary defense, Cosmic impact, Foresight, Refugee, Deterritorialized State.

1. Introduction

The activity of our solar system has been violent enough to shape our planet, but it has also provided long periods of stability in which human life has been able to flourish. Until the 20th century, the study of planetary-catastrophes was associated more with mythological and religious language than with what we would contemporaneously call scientific knowledge. Today we live in an age where science and technology have revolutionised our understanding of the universe and our understanding within it. This learning process has also made us aware of threats that had gone unnoticed for thousands of years. By observing the craters of the Earth and the Moon, we have discovered that our "cosmic neighbourhood" harbours multiple threats to the survival of human life (Morrison *et al.*, 1994).

In popular culture, the threat of an asteroid impact with the Earth is deemed closer to science fiction than real science. From *Armageddon* to the more recent *Don't Look Up*, a gigantic rock heading for Earth is one of doomsday cinema's favourite clichés. The danger of impact has often been misunderstood or exaggerated for the purposes of clickbait (Shafer *et al.*, 2013; Peterson and Thompson, 2020). But while culturally relegated to the realm of fiction and sensationalism, the threat posed by extraterrestrial objects is a source of growing interest and concern for the international scientif community.

Indeed, the possibility of a cosmic impact scenario in the near future cannot be ruled out. Due to the almost random nature of the encounter of objects in the solar system, i.e. the collision of space rocks, asteroids, comets and planets as they move around the Sun, we may be faced with this problem in the coming decades. The analysis of cosmic hazards reflects important similarities with environmental risks and, as discussed in this paper, suggests that prevention and mitigation strategies designed for the risk of environmental impacts can serve as a model for cosmic impacts. For example, evacuation and governance arrangements for displaced populations, the legal status of the refugee, reflections on the configuration of the state, as well as communication and risk awareness strategies, would be useful in both scenarios.

We know that an asteroid impact has triggered a mass extinction event, and that a cosmic collision of such proportions could happen again (Morrison, 1992; Trigo-Rodriguez, 2022). Even if the probability is not significant in the life of one generation, each generation, to the extent that it inherits a habitable planet, has a bioethical commitment to the defence of the planet that will be inherited by generations to come. In this sense, planetary defence is part of the so-called *future-oriented* ethics and an alternative to ethical *presentism*: our action or inaction affects not only *existing* life, but also the life of future generations.

Faced with the risk of potentially catastrophic threats to subsequent generations, planetary defence takes on what Hans Jonas called the "categorical principle of responsibility, whereby one accepts the duty to act in such a way that the effects of

one's action are compatible with the continuance of genuine human life on Earth" (Jonas, 1994).

Applied to the duties of planetary defence, this principle urges us to approach the very problems and tasks of planetary defence —the goal of which is to defend the Earth from the threat of celestial bodies— beyond techno-optimism and technological solutionism, by which the defence of terrestrial life against the potential catastrophic effects of a cosmic impact can be carried out without having to consider the legal and political elements involved in its operations. Against this approach to the range of challenges it presents, we argue that planetary defence will require the deployment of technological, political and legal forms that are unprecedented in human historyforms of cooperation that do not exist in current practice and on which the prevention of catastrophic scenarios linked to the risk of cosmic impact greatly depends. In turn, we argue that the objectives of planetary defence are perfectly compatible with the prevention of catastrophic scenarios linked to climate change and other environmental risks, so that progress in prevention and mitigation with respect to cosmic impacts could in turn serve to prevent and mitigate environmental hazards.

It is essential to anticipate the future creatively and thoroughly in order to prepare for possible challenges that may arise. The scenario method used in this work allows for the creation of coherent and imaginative stories about alternative futures, from the most expected to the least likely (Bishop, Hines and Collins, 2007). By extrapolating current knowledge to plausible scenarios from a transdisciplinary perspective, we can identify threats that could arise in the future and identify strategies to adequately prevent risky situations.

The paper begins by reviewing the background to cosmic impacts and the current state of our response capacity. It then analyses three similarities in the study of cosmic and environmental risks , which serve as a starting point for the analysis of the legal-political issues raised by the threat of cosmic impact. This forward-looking study begins with different scenarios posed by the threat of a real cosmic impacts , based on the current state of science and tecnology: impact warning, failed deflection, partial deflection and total deflection. This is followed by proposals on recognising impact refugees and land-lost states, and reflections on new forms of governance. A review of the regulatory framework is made before concluding with a set of proposals for the future.

2. Background: cosmic impacts

In 2013, a 19-metre diameter rock passed unnoticed by observatories around the world when it struck the Russian city of Chelyabinsk. But it was not missed by the hundreds of eyewitnesses who recorded the event (Brown *et al.*, 2013). The blast wave itself and the energy it radiated as it burned in the atmosphere injured 1,600 people. A major impact occurred in the Siberian Tunguska mountain range in the early 20th century, devastating a forest area of 2,000 km² (Chyba *et al.*, 1993). While there was

no loss of life, if it had occurred in a densely populated area the casualties would have numbered in the hundreds of thousands.

There is evidence that the precursor to the last mass extinction event was an asteroid impact: a rocky object over 10 km in diameter that created the Chicxulub crater (Gulf of Mexico) causing, and in addition to the devastation of the impact itself, caused sudden climate change by blocking sunlight and cooling the global temperature (Álvarez *et al.*, 1982; Brugger *et al.*, 2017). It is estimated that events of this type occur every 100 million years, and with this impact having occurred 67 million years ago, statistically, we are in the last third for receiving another impact of similar magnitude (Chapman and Morrison, 1994).

Thanks to the work of numerous scientific groups and the support of space agencies, the reality of the cosmic impact hazard has been recognised. Today, much effort is devoted to planetary defence: Near-Earth Object (NEO) Observation and Tracking programmes, risk assessment and classification of Potentially Hazardous Objects (PHOs), development of mitigation strategies and legal-political preparedness for human reaction to a possible asteroid or comet impact (Atkinson *et al.*, 2000; Larson, 2006; Chodas, 2015; Baum, 2018). Hereafter, for ease of reading, we will refer exclusively to an asteroid impact.

For the first time, the human species is aware of the cosmic violence that surrounds planet Earth. Even so, it is estimated that we have currently observed only one third of Earth orbiting objects capable of causing regional damage (140 metres in diameter with an estimated impact frequency of 5,000 years) and there is still 10 % of NEOs larger than 1 kilometre (capable of causing global damage and up to 1 billion casualties) to be detected (NASA, 2006; Mainzer *et al.*, 2014).

3. What is our capacity to respond?

In recent years, proposals for asteroid impact mitigation proposals (e.g. kinetic impactor, ion beam, gravity tractor, nuclear device, etc.) have proliferated, suggesting a promising outlook for avoiding catastrophic collisions (Weisbin, 2015; Anthony & Emami, 2018). However, none of these technologies is enough to provide effective defences against a large celestial body heading towards Earth, so new and increased technical efforts will be needed (Rivkin *et al.*, 2023).

Some of these options, explosives in general and nuclear in particular, may be counterproductive. The former, due to the risk of fragmentation of the object by increasing its effective area of impact and preventing future mitigation attempts (Syal *et al.*, 2013). The latter, because of the risks of nuclear war and violent conflict (Baum, 2019). The correction of an asteroid's orbit, also called *deflection*, is a prospective strategy to avoid impacts with the Earth, especially the Kinetic Impactor, as demonstrated by the DART space missions (Cheng *et al.*, 2012) and Hera (Michel *et al.*, 2018). The goal

of these missions is to perform the first double asteroid redirection test to assess the ability to deflect a dangerous object by impact of an artificial spacecraft.

The DART mission in September 2022 demonstrated that it is possible to alter the trajectory of a small asteroid through a kinetic impact; the mission slightly deflected the orbit of the asteroid Dimorphos (Daly *et al.*, 2023). However, this success does not mean that we are prepared to face any scenario for every possible collision scenario with space objects. Many aspects of the nature and behaviour of celestial bodies that could threaten our planet remain to be studied, and unknowns such as the structure, composition and mechanical response of the target can make it difficult to predict the outcome (Syal *et al.*, 2016; Tanbakouei *et al.*, 2019).

Furthermore, the responsiveness will be limited by the time of discovery (Greenstreet *et al.*, 2020), which is a random factor: the longer the observation time prior to impact, the more effective the deflection will be. This lack of knowledge, coupled with the inherent inaccuracies of such astrodynamical calculations (Rumpf *et al.*, 2020), makes the collision threat scenario one characterised by uncertainty.

At the 7th Planetary Defense Conference (2021) of the *International Academy of Astronautics* (IAA), researchers from the world's leading space agencies and academic institutions participated in an impact simulation, confirming our current inability to ward off such a danger (IAA Planetary Defense Conference, 2021).

Both circumstances (future uncertainty and current lack of capability) justify the need to develop international strategies and programmes to accompany the development of available technologies. In fact, the growing concern of the scientific community has prompted some countries to make the first moves to include this issue in their state agendas. An example of this is the creation of the Spanish Space Agency, whose Statutes were approved on 8 March 2023 by Royal Decree 158/2023. Article 2(3) sets the objectives of the Space Agency tis e contribution to national security and the promotion of actions conducive to ensuring security and defence objectives, as well as the reinforcement of the necessary coordination to maximise the efficiency and effectiveness of the financial resources available for security, research, innovation, technology, development, industry and programmes in the space field.

As mentioned in the Royal Decree, the space sector is essential for national security and it is stressed that security policies must be based on international cooperation, taking into account all the actors involved. In this way, the Spanish Space Agency has been created to help organise competences and facilitate the use of space capabilities. Although not explicitly stated in the document, it is clear from the government's position that space and planetary defence activities will become part of national security strategies.

Despite these initial efforts, and due to the existing legal vacuum in this area, we are still far from being able to provide a comprehensive and effective response that guarantees human rights and ensures democratic channels of participation and a transparent decision-making process. This observation highlights the link between political science and planetary defence, precisely because of the way in which mitigation

and adaptation strategies that can be useful for defending against cosmic impacts can, in turn, be useful for guiding the defence of populations against environmental impacts.

7. Similarities between cosmic and environmental risks

The nature of climate change could be described as a hyperobject, i.e. objects that are massively distributed in time and space, multidimensional and with seemingly chaotic behaviour (Morton, 2013). As the reports of the Intergovernmental Panel on Climate Change (IPCC) show, this means that the description of catastrophic scenarios and the design of prevention, mitigation and adaptation strategies require interdisciplinary and transdisciplinary cooperation between specialists from different fields of the international scientific community. In the face of this complexity, the identification of formal similarities in the analysis and study of cosmic and environmental hazards can serve to facilitate the prediction of scenarios and the development of action plans. In other words, an asteroid condenses and projects the impact risks that the climate crisis is spreading.

For example, the international community must consider relocation scenarios for populations, which will be required by the extreme weather conditions that some territories experience. Coastal Inuit communities in Canada are suffering from melting permafrost and small islands such as Kiribati, Tuvalu, the Maldives and the Marshall Islands could be submerged in the near future due to rising sea levels. In order to prevent their inhabitants from being left in legal limbo or even becoming stateless, the need to create a comprehensive framework of *hard* and *soft laws* that guarantee the rights of displaced persons was highlighted (Yamamoto and Esteban, 2017; Atapattu, 2014). Similarly, a cosmic impact could risk rendering the affected regions uninhabitable, with the consequent displacement of populations.

Another example comes from the covid-19 pandemic. In the early days of the pandemic, the slogan "the virus makes us all equal" was widely repeated. However, over the course of two years it became clear that the material conditions of both states and individuals were decisive when it came to articulating a response. The same problem could occur in an impact scenario. The threat of an asteroid apparently equals us as a species, any territory and its population can be endangered by a common enemy that does not distinguish between species, ethnicities, nationalities or social groups, but again, response capabilities are diverse. Only a few states and companies have the technology to protect the population.

In short, the new challenges posed by the climate crisis can serve as a mirror for dealing with the problems of an impact on the Earth, and conversely, the challenges posed by the threat of a cosmic impact can be useful for dealing with the risks of the environmental crisis.

In this sense, it is necessary to go beyond interdisciplinarity to transdisciplinary approach to planetary defense. The transfer of methods from one discipline to another is one of the central features of interdisciplinary methodology. Beyond transfer, however, plural methodological integration makes it possible to overcome disciplinary boundaries through what Basarab Nicolescu called the *transdisciplinary* perspective: the "process whereby the boundaries of individual disciplines are transcended to approach problems from multiple perspectives with a view to generating emergent knowledge" (Nicolescu, 1998; Matos and Quesada, 2008). With regard to cosmic and ecological threats, the transdisciplinary study of cosmic and environmental impact risks highlights three major similarities or isomorphisms that are connected and intertwined: (i) prospective uncertainty; (ii) temporal urgency; and (iii) diffuse responsibility for effects.

1. *Prospective uncertainty.* Natural disasters and PHO collision risks involve *high uncertainty*. In both cases, prospective analysis and the design of protocols are the best safety guarantees for affected populations (Velasquez, 2015). Threats from cosmic impacts can be predictable or unpredictable, in the same way as environmental catastrophes. For example, a volcanic eruption, earthquake, hurricane or tsunami can be foreseen or unforeseen (i.e. La Palma volcano eruption). Other weather phenomena such as heat waves, droughts, desertification and glaciation can be predicted even decades in advance. The same could be said of the risk of a collision. In both cases, anticipation is the key factor in reducing fatalities in a disaster. In the face of uncertain phenomena that can abruptly change the habitability of large regions, forecasting and evacuation mechanisms are the best way to protect populations.

2. *Temporal urgency.* Regarding time, the mitigation of the negative effects of a cosmic or environmental disaster is marked by urgency, matching the definition in Law 17/2015, of 9 July, on the National Civil Protection System: "situation of collective risk arising from an event that puts people or property in imminent danger and requires rapid management by the public authorities to address them and mitigate the damage and try to prevent it from becoming a catastrophe" (Law 17/2015). Because of the likely destruction of infrastructure, the urgency of a catastrophic impact means that the range of possible actions on the ground is reduced: if motorways collapse or are destroyed, or if roads and ports are affected, only air (in the absence of airborne dust) and sea transport (depending on the region) would be effective in alleviating the emerging situation. In terms of effectiveness and efficiency, planetary and environmental defence —or a form of integral defence that brings both together (Coronel Tarancón, Simó Soler and Peña Asensio, 2023)— must prioritise detection and prevention strategies over adaptation strategies.

Whether caused by an environmental or cosmic hazard, a disaster situation means that the affected population must be provided with basic services such as water, sanitation, food, shelter, health care and protection. Because of the urgent nature of these services, each requires prior organisation, additional funding, effective immediate

and long-term support, and data to inform decisions and evaluate interventions. The capacity to respond to the emergency derived from cosmic and environmental impacts calls upon the principle of the responsibility to protect proposed by the United Nations (2005): the responsibility of each state and, subsidiarily, of the international community, to protect their populations in crisis situations that involve human rights violations. Its use requires the determination of the humanitarian aim pursued by intervention (impregnated with geopolitical or economic interests) or the recourse to force as a means of resolution (militarising the solution to the crisis), borne from a narrowing of the factual situation and a nuancing of some controversial elements such as its exclusively political (and not legal) nature, with a greater focus on the preventive facet (Añaños Meza, 2009). Therefore, a *non-invasive* protection clause should be added to the responsibility to protect (R2P) principle, otherwise it would not be possible to prevent the use of R2P as a subterfuge for covert interests.

i.   *Diffuse or shared responsibility.* For both cosmic and environmental impact risks, it is not always possible to assign ethical or political responsibility in a straightforward or simple manner (Spiegel, 2005). In both cases, disasters could be retrospectively associated with the strategic action and inaction of an indeterminate number of international actors. However, the uneven economic development that has emerged in the 21st century places greater responsibility on those powers with the financial and technological capacity to develop strategies to prevent and mitigate catastrophic impacts. Global defence and environmental sustainability require equitable and fair forms of international cooperation. Because not all countries have the same resources to invest in strategies to prevent and mitigate catastrophic impacts, and not all countries are equally exposed to the planetary effects of such impacts. Therefore, and this is the isomorphism that encompasses all of the above, both planetary defence and environmental sustainability are issues of *global justice.*

ii. *Global justice and international cooperation.* Given current state of science and technology, no single state on its own would not be able to deal with the threat that, if it materialised, would create global damage (e.g, a regional impact causing sudden climate disruption or even earthquakes and tsunamis with global repercussions). Moreover, given the inequality of resources between States and non-governmental organisations, the response according to this material criterion would be completely unbalanced between States with technological means and others without any kind of equiment, not even programmes for sky observation and tracking objects. Therefore, and with a clearly improving track record in dealing with transboundary issues, a mitigation strategy would have to be built on international coordination and the creation of a global network of diverse actors, technological resources, budget and democratic decision-making processes that appeals to global justice in the sense of equal protection and guarantees for all populations without distinction (Packer *et al.*, 2013).

From the four elements outlined above, we can deduce the need for a legal-political approach that transcends the limits of "presentism" (Balashov and Janssen, 2003) and

technological solutionism (Morozov, 2015) that have so far defined the problems and tasks of planetary defence.

5. Prospective analysis of the cosmic impact threat

As noted in the previous section, given our level of scientific knowledge and technological capability, the impact threat scenario is based on uncertainty. Not only because the time of detection and the characteristics of the object are unknown, but also because, even if it is detected in time, accurate prediction of the trajectory and the exact collision point may be beyond our capabilities The degree of unpredictability of a catastrophic event would influence the decision-making process and the choice of protocols. This uncertainty (which shifts from the technological to the political) is one of the major elements that link the tasks and problems of planetary defence with political science.

Anticipating the need for cooperation in the face of the threat of a cosmic impact requires a realistic prospective analysis to facilitate an anticipatory governance strategy and an institutional response to the scenarios resulting from a possible impact. The complexity of calculating the exact point of an impact makes it difficult to discuss possible actions. If a state has the ability to deflect an asteroid and change the impact site, it opens the door to discretion. Ironically, if we do not develop deflection technology, we will not be able to defend ourselves against an asteroid encounter. But if we develop this capability, it unlocks the possibility of deliberate misuse with potentially apocalyptic results (Sagan and Ostro, 1994).

This is the so-called *Real Deflection Dilemma*, which asserts that the development of a planetary defence mission necessarily puts otherwise unthreatened lives and tangible and intangible assets at risk (Schweickart, 2004). This scenario defines the interface between planetary defence, politics and bioethics. What criteria could be used to decide whether or not to change the asteroid's trajectory? Are states capable of making ethical decisions when faced with the threat of an impact? Could more powerful states take unilateral decisions affecting third parties? What effects would they have on international relations? Should priority be given to the defence of territories that are densely populated, industrialised, culturally valuable or ecologically valuable?

Regarding differences due to uneven economic and technological development: how does the techno-epistemic privilege of some states over others (without the means to detect, prevent or modify an asteroid´s course) affect the Real Deflection Dilemma? Given the similarities between cosmic and environmental impacts, one might ask: are we witnessing the permanent diversion of environmental impacts to the countries of the so-called Global South? If the global environmental crisis were to be analysed in the light of this dilemma, would it be possible to speak of an *ecological deflection* to define the diversion of environmental impacts from one state to another?

All these questions constitute a mine of bioethical, legal and political reflections that intertwine the analysis of cosmic and environmental risks, while simplifying the equitable attribution of responsibilities for the pursuit of climate justice objectives (Borrás and Villavicencio, 2021). At the same time, they force us to engage in an imaginative and forward-looking exercise, considering the interference of geopolitical interests with prevention and mitigation strategies. As a regulatory ideal, this approach allows for a reconceptualisation of transnational security according to which: "all security actors have a responsibility to consider the global impact of their decisions" (Burke, 2013).

To address the links between ethics, law, politics and planetary defence, we will begin by differentiating the different scenarios in which humanity could find itself with the current scientific-technical capacity of PHO deflection.

6. Scenario method applied to deflection of dangerous objects

The current scientific and technical capabilities in terms of planetary defence allow us to distinguish four scenarios and the legal and political challenges associated with each of them. Their theoretical construction will depend on transdisciplinary extrapolation rather than mere speculation: it is not a matter of imagining, but of projecting the information we have to build hypothetical scenarios from empirical data. Moreover, to the extent that cosmic impacts constitute complex and multidimensional threats, their analysis can benefit from what Edgar Morin (2007) called the "logic of the included third party", whereby contradictions that are intractable at one level of the problem can be resolved at another. For example, when two sovereign nations enter into a dispute, the environmental value of one territory may be more difficult to restore than the infrastructure of another. In this case, environmental analysis unbalances the contradiction between the legitimate interests of sovereign states.

Using this approach, we differentiate between four main scenarios: impact warning, no deflection, partial deflection and full deflection. As we can see in the figure below (see Fig. 1), different scenarios may share elements, as explained below.
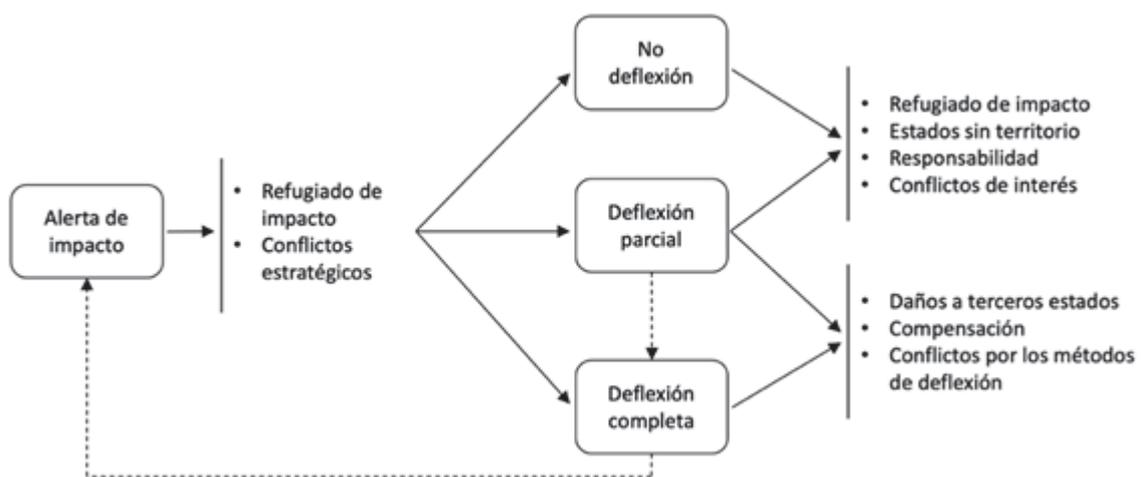
Figure 1. Diagram of the shared elements of each of the cosmic impact scenarios. Source: Author's own elaboration.

6.1. *Cosmic impact warning*

As mentioned above, there can be a high degree of uncertainty in determining the probability of an impact. It is precisely for this reason that it is necessary to act on the assumption that an impact is certain in order to anticipate the worst-case scenario as far in advance as possible.

Firstly, the mere news of a possible impact could *ipso facto* trigger migration to lower-risk regions or even a global migration to the other side of the world. These population movements, candidates for humanitarian and political crises, could be spontaneous or institutionally coordinated, as well as temporary or permanent. But in any case, they should be backed by a legal framework on the impact refugee (discussed in the following section). In addition, different conflicts could arise over the response strategy selected, as the mere intention to opt for certain mitigation actions would generate tensions between states.

Secondly, one country might interpret as a security threat another state´s attempt to employ a dangerous and questionable technique that would cause further damage. Consider, for example, the use of nuclear explosives. A launch failure could result in a radioactive contamination phenomenon on the ground or at low altitude. Another example would be an explosive mitigation strategy that fails to destroy the asteroid but produces fragments that would remain on the same collision trajectory, enlarging the effective impact area (Syal *et al.*, 2013). This would exacerbate the previous situation, hindering further deflection attempts and threatening new regions rather than reducing risk (Rumpf *et al.*, 2020).

Furthermore, an optimal explosive mitigation method (with a high destructive potential) could exacerbate nuclear tensions between countries (Schmidt, 2019) and should therefore be relegated to the *last resort* category (Baum, 2019). Following this line, a threatened state might rule out the use of nuclear explosives and, if this were the only option, the debate would then arise over the scope of national sovereignty and the non-existent obligation of states to help others (Drube and Haddaji, 2020). There could even be such perverse situations as a state failing to report an imminentf collision in orden to reduce its room for manoeuvre and improve its position in assistance.

On the other hand, to maximise operational control and ensure maximum responsiveness, states could nationalise key enterprises not only for defence strategy, but also for economic recovery. With the increasing need for public-private partnerships and the emergence of aerospace mega corporations, a successful outcome through private sector intervention could force compensation or privileged deals.

6.2. *No deflection: failure or inaction*

Inaction by the threatened state or a failed mitigation mission could lead to a catastrophic event. The territory could be devastated and its infrastructure (housing,

parliament, hospitals, courts, police stations, businesses, etc.) destroyed. Depending on the damage caused, the previously evacuated population would be temporarily or permanently displaced from their territory (Atapattu, 2014; Ferris, 2010).

First, the existence of an uninhabitable territory, or its physical extinction, suggests a reconfiguration of the nation-state model under the paradigm of land-lost states (as will be discussed below).

Secondly, if the actors involved (states, companies or international organisations) failed to divert or destroy the asteroid, there would be no legal obligation to help the states affected by the failure. In principle, ignoring the request for assistance would not violate any international norm, hence the importance of the principle of *bioethical responsibility* in the development of new international obligations. The States that, at each historical moment, have a decisive technological capacity for the deflection test are *a priori* responsible for the action and inaction within their capacity. Therefore, in order to minimise the negative consequences of neglecting threatened populations, it would be necessary to determine in advance a regime of shared responsibility that defines and delimits the legal effects of decisions.

In this sense, the involvement of a third party in the mitigation strategy could be approached from a cost-benefit analysis in which conflicts of interest would not necessarily disappear. One State might refuse to help another because it is a competitor on the global market or for geopolitical reasons. Conversely, a State could offer its cooperation to a state, which does not have sufficient technological capacity, through unfair negotiations. Indeed, a cosmic impact scenario places the value of living beings, as well as the protection of the planet's biosphere, at the centre of the debate (Schmidt, 2018), especially in a context of climate emergency like the current one, where the defence of human and non-human life is presented as tasks that, far from being incompatible, are strongly pointed out as inseparable by anti-speciesist, ecologist and environmentalist organisations (Horta, 2010; Pendergrast, 2016).

6.3. *Partial deflection: diverted impact*

This framework includes the deflection actions of the asteroid which, although they may have changed the point of impact, but did not prevent the collision. In this scenario, the asteroid would be partially deflected due to a limited mitigation capability or a mission failure, causing damage to a region that was not originally at risk. All the elements are the same as in the previous framework: migratory phenomena, states losing territory, the call for cooperation, responsibility for the failure of the strategy and conflicting interests. Similarly, a post-deflection impact could occur if there were a succession of unilateral deflections between states to minimise their risks, causing the object to hit a third state other than the one initially threatened.

This would be the case if a first state deflects the asteroid, a second state deflects it again, and the asteroid finally collides with an ocean, causing a tsunami that hits the

coast of a third, previously unthreatened State. The consequences should be analysed, ranging from sanctioning of states to compensation claims by the affected state. Geopolitical interests and lack of technological capacity, as well as disagreements over methods, would again come to the fore.

6.4. Full deflection: deviation without impact

In principle, avoiding the asteroid's impact would count as a success. However, this would not prevent subsequent close encounters typical of the orbits of these objects (Giorgini *et al.*, 2008). The impact hazard could emerge later threatening a new region of the Earth.

Firstly, as in the previous case, a third State not initially on alert could now be at risk, and in the event of a new threat of impact following first deflection, two legal issues would again rise: the reward to the State or entity successfully implemented the defensive strategy and the claim for compensation by the injured State. The assumption of a dangerous re-collision after a deflection poses an additional challenge, since *a priori*, at the moment of deciding to modify the trajectory, the point of impact in a subsequent close encounter could not be accurately foreseen, and the attribution of liability would therefore be highly complex.

The main difference between full and partial deflection is that, with a partial deflection strategy, can anticipate new impact areas. However, in a full deflection it would not be possible to estimate the threatened area in a future close approach, as the orbital dynamics of close encounters multiply the degree of uncertainty in medium- to long-term predictions.

Regardless of the outcome, the mitigation action could be carried out in violation of norms of international law, such as the prohibition on the use of nuclear weapons. This presents an apparent contradiction between respect for the rule of law and the protection of human life. In such case, the triple canon of danger, necessity and consent should be taken into account (Drube and Haddaji, 2020). The limits of national sovereignty in a context of a global threat and the circumstances that preclude the wrongfulness of conduct that would otherwise be contrary to international law, would all need to be re-evaluated.

The design of *pre-agreed* government penalty, compensation or indemnification mechanisms would be a prerequisite for legitimate decision-making. However, conflicting sovereign interests, lack of technological capacity and procedural disagreements would define the most likely rationale. In the partial deflection scenario, for example, states could accept the uncertainty characteristic of the cosmic impact threat as an opportunity to take on a hypothetical *veil of ignorance* (Rawls, 1971): since any region, country or continent could be threatened, it would make sense to formulate rules and procedures independently of which region is threatened. As Francisco Caballero (2006) points out , the agreements linked to this uncertainty

are, as a matter of principle, inseparable from "the acceptance of a set of restrictions imposed in favour of principles of justice".

In all these cases, a development of a body of law requires a thorough knowledge of the specific factual scenarios. Extrapolating current knowledge on techniques and possible outcomes is an essential first step in disaster forecasting and prevention.

7. *From climate refugees to impact refugees: land-lost states and new forms of governance*

The remote possibility of a territory disappearing completely (or becoming uninhabitable) requires an exercise in conceptual flexibility aimed at rethinking the model of the modern nation-state, the new migratory phenomena, and redefining essential elements such as citizenship and the sovereign authority of the State (Marshall, 2020). This conceptual flexibility contrasts with the normative rigidity with which, until now, the figure of *climate refugee* has been denied legal recognition. However, it is possible to coin the concept of *impact refugee* and to think about their political-legal status by taking the debates around *climate refugees* as a model and a starting point.

The United Nations High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM) do not recognise the term *climate refugee*. One of the main reasons for its rejection lies in the contours of the 1951 Refugee Convention which contains an exhaustive list of circumstances that determine refugee status and which does not allow for an expansive interpretation (Williams, 2008; Biermann and Boas, 2008). The remaining alternatives are to add a protocol on climate-induced migration to the UN Framework Convention on Climate Change, or to create a new specific legal and policy regime, which in this case would address the needs of impact refugees: recognition, protection and, where appropriate, compensation and resettlement (Hartmann, 2010; Kostakos *et al.*, 2014).

As in the case of the proposal on climate refugees, the legal-policy formulation of the *impact refugee* require the consideration of several aspects related to migratory movements: the motives (linked to the possible scenarios outlined above), the duration (temporary or permanent) and the dimension (national or international) (Biermann, 2008). Each of these possibilities would require a specific plan of action by the threatened state, technologically advanced States and the international community.

Unlike a stateless person (a natural person without a nationality), impact refugees would be persons with a nationality and under the protection of the laws of a state that no longer has a territory, i.e., a new figure would emerge, that of a citizen without a territory or *landless*. Underlying this approach is the concept of *ex-situ nationhood* proposed by Burkett (2011):

> "[It would be] a status that allows for the continued existence of a sovereign state, afforded all the rights and benefits of sovereignty amongst the family of nation-states, in perpetuity. It would protect the peoples

forced from their original place of being by serving as a political entity that remains constant even as its citizens establish residence in other states. It is a means of conserving the existing state and holding the resources and well-being of its citizens —in new and disparate locations— in the care of an entity acting in the best interest of its people."

As an effect of mass migrations, traditional forms of governance would be altered, and a *co-sub-governance* could be projected in a scenario of a territory geographically erased by an impact and a migrated population hosted by another state. This is a form of governance that may require cooperation strategies between the institutions of the displaced and host states, favouring a kind of joint governance or the creation of sub-governance within the framework of the host State. Moreover, it is inevitable to formulate a series of questions aimed at finding solutions to this hypothetical but plausible situation. Would the international community recognise states without territory? Would governments in exile be legalised? Would mobilised populations be relocated to other territories and offered legal protection? In what cases could there be provisional transfers of territory between states? Would the reconstruction of land-lost states be financed? (Douglas, 2017).

Such issues have been discussed in the context of Small Island Developing States (Woodward, 2019). In order to preserve their sovereignty, one camp recommends the creation of *ex-situ* nations based on a system of political trusteeship, governments in exile or land-lost states as possibilities in the field of international law.

Thinking about non-face-to-face governance and the possibilities offered by technology (as seen during the covid-19 pandemic), new forms of virtual governance could emerge with digitised institutions (Fountain, 2014). A sort of meta-nation-state with constitutional bodies hosted on web servers, which would make possible new models of democracy. Although inevitably speculative in nature, the possibility of such a state requires reflection on the factual legitimacy of virtual states, or on the exercise of the legitimate monopoly of violence in a digital environment. Despite their relevance, both problems are beyond the formal and material limits of this paper.

In any case, since this is an area to be explored and proposals are in the pipeline, the sooner the appropriate policies and governance mechanisms are defined, the better off the governments and populations will be in. In this sense, it is important to define the decision-making process from an organic and procedural point of view.

8. Decisions and procedures: towards a democratic planetary defence with due process

Some caveats related to the actors involved in planetary defence are shared with climate migration. The five permanent members of the UN Security Council —the United States, China, Russia, France and the United Kingdom— are some of the largest emitters of greenhouse gases and can take the lead in responding to climate disasters (Hartmann, 2010). The same paradox applies to PHO mitigation strategies.

The same states may have both the technological capacity, and simultaneously have the right of veto. This overlap translates into an excessive concentration of power, which calls for the search for tools to democratise the techno-political oligopoly of planetary defence.

Decision-making conflicts could become more complex assessing the impact on the right of individual or collective self-defence if a state does not have the technological capacity to prepare a deflection mission. In case of a veto, the threatened state could invoke Article 51 of the UN Charter or justify the action as necessary, circumventing the veto in accordance with the law. In this regard, two scenarios arise that merit consideration.

First, the right of veto could be understood as a right of individual self-defence if the deflection strategy potentially affects one of the five permanent members of the Security Council. Second, discrepancies in the assessment of danger could lead to divergent positions on the justification for planetary defence action. Some members may consider that the consequences of the impact are manageable or that the likelihood of the impact does not require mitigation missions, and agree on a threshold that takes into account not only economic balances but also the subjectivity of socio-cultural values (Drube and Haddaji, 2020).

The potential for interference by spurious geopolitical interests remains. As Schmidt (2018) argues, "We can say that everyone tends to want to save the world, but the question is how much of the world they would want to save. For some, saving humanity may be a lever for domestic political objectives." A statement followed by the stark acknowledgement that "there is no reason why we should assume that the *modus operandi* would change in planetary defence". This should urge us to avoid naïve approaches that assume rational behaviour on the part of States for the defence of the planet, thus emphasizing importance of risk governance and the role of intelligence systems for the protection of national security beyond ratified pacts or treaties (García Hom and Moles Plaza, 2013).

In this sense, addressing the decision-making system from a procedural and organic approach becomes a priority. Actors should take into account the influence of politics and power struggles due to the lack of a solid legal framework, as well as the disruption in the exercise of democracy. Without this guarantee, "unique defensive activities can become a destabilising factor, trigger arms races and destroy the balance between major powers, not only in space but also on Earth" (Drube and Haddaji, 2020).

Although they are strictly political aspects, discussions about them should not be separated from the technological sphere and advances in science. It should be determined which institution will be the decision-maker. Will it be technologically capable states, the UN Security Council or a specific *ad hoc* institution? Could an *in extremis* planetary defence action be unilateral? If the purpose is to democratise the decision-making process, would a referendum be a valid instrument? Indeed, these are questions that will require time for reflection, and the answers must be agreed upon in advance in order to avoid conflicts, the tensions of which could be exacerbated

by the immediacy of the decision and the damage caused by failure or inaction. In planetary defence, therefore, the political-legal sphere must be seen as inseparable from technological development.

Taking into account the circumstances of the most vulnerable groups, States must assume that the threat of an asteroid hitting the Earth puts the entire planet at risk, regardless of the final outcome. Anticipatory measures must be taken in international law alongside the safest and most effective mitigation techniques, with particular emphasis on developing democratic solutions to protect humanity from a cosmic threat.

9. Legal framework and proposals for the future

Society and its demands usually precede the law. There are many examples of this general legal dynamic, from lower taxes and the recognition of same-sex marriage, to access to education and bans on single-use plastics. In planetary defence, however, the process must be reversed. Science and law must anticipate the occurrence of the factual event, since it would be inconceivable to wait for a collision to occur in order to regulate the aftermath.

In a situation where a) technological capacity is in the hands of major world powers; b) there are private actors with more power than some states to make decisions with global repercussions; and c) the decision-making process is not pre-defined, the balance of power may be altered. Consequently, some legal aspects must be addressed in the light of geopolitical interests and the likely multipolar distribution of global power in terms of planetary defence.

In any case, a regulatory legal framework should be designed and the actions and responsibilities of states should be defined (Bucknam and Gold, 2008; Rusek, 2022). The *Corpus Iuris Spatialis* is composed of five main instruments ratified by most states (*Outer Space Treaty, Rescue Agreement, Liability Convention, Registration Convention, Moon Agreement*), which do not constitute a specific regulatory regime. They cover questions of reporting and action, the legality of planetary defence methods, the liability regime and related issues such as space debris and the role of non-governmental organisations.

It would be appropriate to start regulating them, bearing in mind that the main drawback is the high degree of uncertainty. Binding agreements should therefore be sufficiently broad enough to build consensus and be tailored to the specific circumstances of the collision. The more detailed the planetary defence strategies, the greater the legal security for states and citizens.

With regard to the system of liability, it would be relevant to approach it from a two-fold perspective: that which refers to the *situation resulting from a violation of international law* and that which includes *the duty to compensate for damages*, generating a framework that could be summarised as follows: "a state may be held internationally

responsible for a wrongful act even if there is no material damage; a state may be held internationally responsible for damage caused even if it has not acted unlawfully" (Drube and Haddaji, 2020).

Both parameters need to be analysed in detail, as does the disclaimer of liability. The legal and legitimate grounds on which international law could be violated should be adapted to the context of the cosmic impact threat. As considered by SMPAG*(Space Mission Planning Advisory Group)*:

> "in practice it may be difficult to conduct a comprehensive assessment of whether in a particular case the specific conditions for invoking the circumstances precluding wrongfulness are met, such as whether the threat of an NEO constitutes a 'grave and imminent danger', whether a certain mitigation method is 'the only way' available to safeguard the interests endangered by the potential impact of the NEO and whether the essential interests of other states are seriously harmed" (Drube and Haddaji, 2020).

Furthermore, the exemption of the state from liability for damages caused by the mitigation action could be understood as an incentive for the nation, agency or company carrying out the mission (Drube and Haddaji, 2020). The extreme, but still feasible, case of an imminent threat of mass extinction may require a rethinking of exceptional cases in the interest of the higher and unique good of humanity as a whole. Privileged countries, in this case because they have sufficient technological capacity or resources, would have an ethical duty to mitigate the asteroid's impact by following the maxim that all members of the human community should be treated as equals, with the aim of avoiding structural injustice and seeking relational equality (Heilinger, 2020). Once again, this is an exercise in adjusting the rules to an unprecedented factual situation.

Taking into account all the above criteria, and assuming the differences between climate change and a cosmic impact threat, institutional action to mitigate global warming could serve as a frame of reference to address a transnational problem that requires joint action. Following in the footsteps of the fight against climate change, it would be appropriate to hold international working fora to begin planning planetary defence guidelines. The *International Asteroid Warning Network*, the *Planetary Defence Coordination Office* or the *Space Mission Planning Advisory Group* could lead a conference to discuss the creation of a future planetary defence treaty, paying special attention to the migration phenomenon. Creating spaces for dialogue is essential because, as Schmidt (2018) announces, 'planetary defence gives us the opportunity to think of ourselves as a single interconnected and interdependent species, and we have a responsibility to stop thinking of ourselves as our own enemies, otherwise we will not survive for long'.

10. Conclusions

The experiences of covid-19 and the fight against climate change have highlighted the current human inability to coordinate and prevent catastrophic scenarios. Planetary

defence therefore represents an unprecedented historical and political opportunity to develop new forms of collective action for the defence of human and non-human life on planet Earth. In line with this objective, we have found that the current state of global defence cannot avoid legal-political cooperation to achieve its goals.

In the absence of precedents, it is necessary to highlight the need to reverse the traditional scheme according to which social demands precede law. In a transdisciplinary extrapolation exercise using the scenario method, it is possible to see that uncertainty and cooperation are the main elements in PHO mitigation strategies .

The scientific and prospective analysis of cosmic impacts reveals, first of all, that the threat of collision constitutes a real risk which, because of its potential catastrophic effects, cannot be ruled out on the basis of its low probability. The existential risk implicit in cosmic impacts calls for the principles of precaution and responsibility to defend the conditions of Earth's habitability for future generations.

Secondly, all the scenarios that could occur in the face of a cosmic impact threat (impact warning, no deflection, partial deflection or full deflection) invite reflection on the current techno-epistemic privilege of States with potential mitigation capabilities, which poses both a serious risk to vulnerable States and a danger to the multipolar balance of power at the time of acting out defence strategies .

Thirdly, this work confirms the need to anticipate new contexts, new legal figures and new forms of governance (impact refugees, States without territory, co-sub-governance and virtual governance) as instruments that favour a preventive capacity in the elaboration of regulations, protocols and governmental programmes for national and planetary security.

Only prospective analysis can facilitate the criteria of fairness, equity and proportionality prevailing over privilege and power relations in potentially catastrophic scenarios. In the face of the threat of cosmic impact, the legal-political and bioethical approach concludes that it is necessary to promote the acceptance of restrictions by sovereign States as an indispensable action for coordinated action in accordance with human rights. Ultimately, anticipation becomes the best strategy to guarantee human rights and, ultimately, the survival of humanity.

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Offensive counter-intelligence as a suitable disrupter to counteract Russian foreign intelligence

Abstract

The activities developed by the intelligence services are aimed at providing information, analysing it, preparing intelligence products and disseminating them to political decision-makers, in order to support their decision-making in the face of threats, risks and opportunities. On the other hand, the counter-intelligence operations, as a specialised intelligence discipline, have a double dimension: the offensive counter-intelligence, which aims to penetrate the enemy services and use the figure of double agent ; and the defensive counter-intelligence, which leads to the identification of designated service officials, the knowledge of the methods used and the identification of their sources of information. In this essay we will delve into the origin and importance of counter-intelligence operations, aimed at fighting counterinformation, espionage and subversion, and how to improve the counter-intelligence analysis using the structured analysis techniques.

Cite this article:

1. Introduction

The term "intelligence" as we know it today has its roots in the 16th century and even earlier. Renaissance Venice was an ideal setting for the emergence of intrigue and the exchange of information and secrets. The city's canals, bridges, stately homes and palaces facilitated this activity, creating an environment conducive to the emergence of the espionage networks woven by European diplomacy during the 16th and 17th centuries. And within these networks, subtly differentiated profiles and terms emerged, such as envoys, residents, plenipotentiaries, agents and intelligentsia. However, in the military sphere, the preferred terms were "spy" and "espionage", for the employment, in return for financial reward, of those who were informants and people close to treasonous, conspiratorial or despicable activities (Navarro, 2009:106-108).

There is now a widely accepted definition of the term intelligence and espionage activities, and although scholars of these disciplines continue their discussions, the differences are credulous and have to do with the scope of definitions centred on the function of providing information, analysing it, devising an intelligence product and providing it to the decision-maker to support their decision.

We aim to deepen the counter-intelligence approach as a discipline to make intelligence work to our advantage. Not only is mistrust the basis of counter-intelligence, but its exercise reinforces mistrust, which ultimately becomes a problem (Taylor, 2007:10). An instinctive cycle that feeds back on itself and degenerates into paranoia. Thus, the act of counter-intelligence fuels feelings of apprehension and suspicion which, in turn, generates further scepticism (Taylor, 2009: 35).

In the following sections, we will discuss the role of counter-intelligence, highlighting its offensive disruptive nature in countering the threat of espionage and infiltration, as well as the degree of influence and impact on other areas of relevance to any modern state. These includes national security strategies and the neutralisation of espionage; the objectives of counter-intelligence and the structure, operation and activities of opposing intelligence services; the successes of Soviet-Russian intelligence and the reason for Western mistakes; and finally, the importance of counter-intelligence analysis and the use of structured analytic techniques.

2. Counter-intelligence in Spain's National Security Strategy

The Spanish National Security Strategy, with the objective of guaranteeing security, sets out a plan for political action through three fundamental axes: "*protect*", "*promote*" and "*participate*". The third chapter, on risks and threats, focuses on identifying strategic targets for preventive action by drawing up a risk map to combat hybrid strategies, disinformation campaigns and espionage. And in the field of counter intelligence, there is a willingness to adopt measures in defence of Spain's strategic, political and economic interests, with the aim of preventing, detecting and neutralising covert

aggression by hostile intelligence services that seek to obtain information and state secrets by means of illegal or criminal procedures[1].

The strategic review warns about hybrid strategies executed by hostile services, including espionage operations as a form of intimidation against Spain's security[2].

2.1. *The search for a homogeneous, analogous definition of counter-intelligence as a discipline*

One of the modern definitions for counter-intelligence was drawn from the arguments contained in Samuelson and Nordhaus's economics textbooks, in which they stated: "Economics is the study of how societies use scarce resources to produce valuable commodities and distribute them among people" (Samuelson and Nordhaus, 1992: 53).

Thus, for an initial definition based on the theories of Samuelson and Nordhaus, we can state that (Ehrman, 2004:44): "Counter-intelligence is the study of the organisation and behaviour of the intelligence services of foreign states and entities, and the application of the resulting knowledge". It is a definition that enjoys a number of qualities. Firs, it assumes that counter-intelligence is a broad analytical discipline that encompasses all ntelligence service, whether domestic, foreign or military. Secondly, the definition avoids transforming the study of intelligence services into a simple research exercise (Ehrman, 2009: 4-5).

A second definition of counter-intelligence is found in the US National Security Act of 1947, as amended by 50 USC 401a of the National Security Act of 1949 (Ehrman, 2009: 4):

> "The term 'counterintelligence' means information gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities".

A third definition can be found in Executive Order 12333 passed by Ronald Reagan, President of the United States (Ehrman, 2009: 4): "Counterintelligence means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities".

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1   The National Security System. National Security Department (DSN). Available at: https://www.dsn.gob.es/es/sistema-seguridad-nacional/qué-es-seguridad-nacional/ámbitos-seguridad-nacional/contrainteligencia

2   Spying and interference from abroad. 2021 National Security Strategy. Royal Decree 1150/2021 of 28 December, approving the National Security Strategy (Spain). Available at: https://www.boe.es/boe/dias/2021/12/31/pdfs/BOE-A-2021-21884.pdf

A fourth definition comes from the *National Counterintelligence Strategy 2016* (Evanina, 2016: 1-6), which states:

> "Counterintelligence is the activity of identifying and addressing foreign intelligence threats to the United States. Its main concern is foreign intelligence services and similar organisations of non-state actors, such as transnational terrorist groups. Counterintelligence has a defensive mission, to protect sensitive national assets against foreign intelligence infiltration, and an offensive mission, to identify what foreign intelligence organisations are planning in order to thwart their objectives".

From other regions, specifically the USSR, we discovered a practical definition of counter-intelligence provided by Vasili Mitrokhin, a defector from the KGB (Ehrman, 2009): 5), who argued: "Counterintelligence activity is an activity carried out by special state agencies against foreign intelligence services and organisations and individuals being used by them".

In the light of the above explanations and when taking the definition of counter-intelligence in Spain into comparison, we find counter-intelligence fell within the purview of the SECED, the espionage and counter-espionage agency that was the precursor to the CESID and later the CNI (National Intelligence Centre). The Spanish secret service of that time had its own counter-intelligence unit attached to the Second Section of the High General Staff (Bardavio *et al.*, 2000: 12). Colloquially known as "the High One. Or the origins" (Urbano, 1997: 34). It was a group specialised in counter-espionage activities (Bardavio *el al.*, 2000: 12). However, the most significant change came with the enactment National Intelligence Centre (CNI) Act,[3] in which we can note similarities in terms of the information gathering that allows for the prevention, detection and neutralisation of competing intelligence services.

2.2. *The duty of intelligence services: neutralising espionage*

The powers to neutralise espionage and guarantee the protection of classified information lie exclusively with the CNI, as set out in Article 4(b) of the CNI Act:

> "Prevent, detect and enable the neutralisation of those activities of foreign services, groups or individuals that jeopardise, threaten or attack the constitutional order, the rights and freedoms of Spanish citizens, the sovereignty, integrity and security of the state, the stability of its institutions, national economic interests and the welfare of the population".

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3 Chapter I. General provisions. Article 4. Functions of the National Intelligence Centre. Law 11/2002 of 6 May 2002 regulating the National Intelligence Centre. Available at: https://www.boe.es/buscar/act.php?id=BOE-A-2002-8628

It should be pointed out that not only are counter-espionage and infiltration as *disruptive actions* against hostile intelligence services essential for an intelligence agency, but also analysis activities (Navarro and Esteban, 2004: 35), and more importantly, structured analytic techniques. These latter techniques are aimed at providing support to the analyst for the purpose of increasing his capabilities in the planning and implementation of clandestine actions and covert operations, focused on counter-espionage and offensive intelligence.

Today, the strategic dimension of knowledge management takes on special relevance at a time when there is no doubt that it is considered a fundamental strand in decision-making processes (Navarro and Esteban, 2004: 56).

it must also be stressed that analysts cross minefields every day to know the present and from it guess every future, sustained by the valuable secrets intelligence gathering reveals. In the same way, counter-intelligence cannot be understood if it does not provide protection for the concealment of secret information by means of *cryptography (kripto*, hidden, and *grafía*, writing) or, on the contrary, through *cryptanalysis,* as a discipline linked to the study of the various methods for decoding encrypted information produced by other services (Ribagorda, 2015: 313).

2.3. *The Spanish position on counter-intelligence*

In one of the definitions linked to the discipline of counter-intelligence (Navarro, 2009: 377), the researcher Navarro Bonilla argues:

> "Counterintelligence is, so to speak, the inherent reverse of intelligence, and as old as intelligence itself. Indeed, a historical analysis of the one in isolation from the other is not understandable. This concept encompasses all the means and resources available to a state, which are capable of identifying and neutralising the action of agents or spies of a foreign or enemy power who are seeking to carry out aggressive operations against any interest of that sovereign state, whether located inside or outside its national territory".

The activities carried out by the Spanish counter-intelligence were divided into two two categories: firstly, counter-information i.e the actions aimed at disabling the informational effectiveness of foreign powers in matters related to the nation itself; and, counter-subversion, i.e the actions aimed at identifying, neutralising and counteracting the subversion of hostile powers, understood as activities that provoke disorder in the general interest, security and defence of the nation (Navarro, 2009: 377).

Accumulated experience led to other complementary specialities being included under the term counter-information. Counter-espionage, as a speciality, is aimed at identifying, detecting, tracking and neutralising spies and operatives active within the jurisdiction of another state. It has its own methods of action: firstly, the intelligence cycle which involves gathering as much information as possible about a possible aggression by agents of an enemy intelligence service; secondly, the complete identification of the

network operating in the country, which requires the initiation of counter-intelligence operations to disarm it; and thirdly, allowing the spy to continue his illegal activity but under surveillance with his movements tracked, and checked in order to obtain as much information as possible (Navarro, 2009: 377). Therefore, deception and lies are very powerful weapons in the war against spies (Navarro, 2009: 385).

Currently, the meaning of counter-intelligence must be interpreted in the light of the CNI Act, which states:

> "Counterintelligence is none other than the set of actions aimed at preventing, detecting and enabling the neutralisation of those activities of foreign services, groups or individuals that put at risk, threaten or attack the constitutional order, the rights and freedoms of Spanish citizens, the sovereignty, integrity and security of the state, the stability of its institutions, national economic interests and the welfare of the population"[4].

After analysing the index of terms in the "glosario de intelligencia" [intelligence glossary], we looked at the similarities in an analogous definition for counter-intelligence (Esteban *et al.* 2007: 68), which offers us a scientific interpretation of what the discipline represents (Esteban *et al.* 2007: 64): [...] activities aimed at nullifying the knowledge that foreign intelligence services seek to acquire about essential aspects of the state in the political, economic or security fields.

At the same time, it is worth highlighting the relevant role played in military counter-intelligence (competences and missions) by the personnel belonging to the Armed Forces Intelligence Centre (CIFAS), who advise both the Chief of Defence Staff (CHOD) and the Chiefs of Staff of the Spanish Army and Navy[5].

3. Counter-intelligence objectives

Before describing the objectives of counter-intelligence, we must define what we mean by counter-intelligence.

It "is the specialised discipline of intelligence operations", and when successful it generates endless feedback loops. Initiating an operation requires the application of previously gathered and analysed counter-intelligence information (Ehrman, 2009: 5-20). Thus, counter-intelligence operations, as a disruptive tool, are aimed at obtaining additional information on how the competing service operates, including many details of its operations. It can be classified as offensive or defensive counter-intelligence.

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4   Chapter I. General provisions. Article 4. b) Functions of the National Intelligence Centre. Law 11/2002 of 6 May 2002 regulating the National Intelligence Centre. Available at: https://www.boe.es/buscar/act.php?id=BOE-A-2002-8628

5   Organisation of the Defence Staff. Article 8 The Armed Forces Intelligence Centre. "*It also advises the CHOD and the Army and Navy Chiefs of Staff on military counterintelligence...*". Available at: https://www.defensa.gob.es/Galerias/ministerio/organigramadocs/ORDEF-2020-710-organizacion-basica-EMAD-.pdf

3.1. *Offensive counter-intelligence activity: penetration of opposing intelligence services*

The scientific perspective provides a precise definition of the penetration agent (Esteban *et al.* 2007: 80): "An agent recruited or implanted as a member of an opposing organisation, engaged in obtaining and supplying information in a clandestine and regular manner to the intelligence service to which he belongs or with which he collaborates. Unlike an informant, this agent actively seeks information".

Consequently, a successful raid would provide the identification of spies in the designated competing service working for it or others, and even if the raider did not know their identities, it would provide information that would lead to unmasking them.

When it comes to infiltrators, they know the organisation and can provide biographical information on their colleagues, revealing possible internal friction, training received, relevant details of their operational methods, or the ability to climb career ladder and gain access to relevant information within the service.

Mid-level infiltrators can be devastating to an intelligence service, as former CIA counter-intelligence analyst Aldrich Hazen Ames demonstrated (Ehrman, 2009: 5-20). For nine long years, Ames betrayed his country after offering his services to the KGB (Andrew, 2018: 709).

William J. Casey, former CIA director under Ronald Reagan, consistently pressed Soviet division officials time and again to make efforts to recruit human sources (Woodward, 1981: 274-275).

3.2. *Offensive counter-intelligence activity: double agents*

The most complex discipline of intelligence is counter-intelligence, but the most challenging subspecialty of counter-intelligence is the "double agent".

The scientific perspective again provides us with a definition: "[...] a double agent is an intelligence agent or officer of one service who is recruited by another foreign intelligence service or services to carry out clandestine activities, usually supplying information about his or her first service" (Esteban *et al.*, 2007: 51).

An example of a double agent is "one who has been sent by one intelligence service to volunteer to another service" or "an asset of a service who has been discovered by another service and turned(flipped), i.e. sent back to spy on the original handlers" (Ehrman, 2009: 61).

3.3. *Defensive counter-intelligence activity: identification of foreign intelligence officials*

A third type of counter-intelligence operation is one aimed at identifying the officers of a designated service who are engaged in espionage activities and then, through field

agents and physical and technological surveillance, revealing their operations, contacts and sources of information (Ehrman, 2009: 62).

In Spain, in the summer of 1996, an episode took place in Madrid's Parque del Retiro involving officers from two intelligence services. The main protagonist was a Russian citizen named Sergei Viktorovich Skripal, who was supposed to be carrying out diplomatic activities in the city as First Secretary of the Embassy, focusing on science and technology companies. However, his real hobby was espionage (Urban, 2018: 7-12). Skripal was a military intelligence (GRU) colonel at the Russian diplomatic legation, whose mission focused on recruiting human sources and obtaining information of military interest for onward transmission to Moscow. But his regular strolls through the Retiro were being studied by a young British Foreign Intelligence (MI6) officer named Richard Bagnall, based in Gibraltar. Bagnall deployed an operation in the centre of Madrid aimed at recruiting a veteran of Russian military intelligence, persuade him to defect and, together with his family, travel to the UK.

4. Understanding the organisation, structure, functioning and activities of foreign intelligence services

Counter-intelligence is ingenuity aimed at discovering and learning about the intelligence efforts of the opposing service. The task involves understanding and exploiting the competitor's dependency, and requires the use of detailed detective work in the operational detail of the clandestine world, winning meetings, appointments and interviews, setting up locations where messages and intelligence can be exchanged as if they had never occurred (Hitz, 2004: 5-7).

One of the activities carried out by counter-intelligence is the sacrosanct study of rival services and constitutes an analysis-oriented procedure. In other words, it is an analytical process to reveal or unmask the adversary's behaviour and how they define and fulfil their goals.

4.1. The intelligence services of the Russian Federation

The Soviet security apparatus has evolved very little over the last hundred years. The KGB (Committee for State Security) of the past and today's agencies that make up the conglomerate of the Russian intelligence services (the FSB, SVR and GU), were and are the Russian state's tools to intervene in the lives of its citizens and to conduct foreign policy (Barron, 1974: 391).

Founded in 1917, as a state surveillance, investigation and security apparatus, the "Cheka" was established itself as a terrorist organisation with the aim of exterminating and eliminating citizens who expressed their opposition to communist policies. It became an army of 31,000 civil servants and an institution geared towards the performance of a set of skills and attributes that, to this day, endure in Russian society (Barron, 1974: 392).

Image 1. Evolution of the USSR Intelligence Service (KGB).
Source: Author's own elaboration based on the work of Christopher Andrew and Vasili Mitrokhin (1999: xi).

In February 1922, the State Political Directorate (GPU) replaced the Cheka. A new body subordinate to the People's Commissariat for Internal Affairs (NKVD), with functions of militia control and conventional police (Lucas, 1966: 269). The following year, the GPU would become the Joint State Political Directorate (OGPU) (Barron, 1974: 393). Subsequently, by Stalin's order of July 1934, the OGPU would be transformed (Barron, 1974: 394) into the Main Directorate of State Security (GUGB), under the aegis of the NKVD.
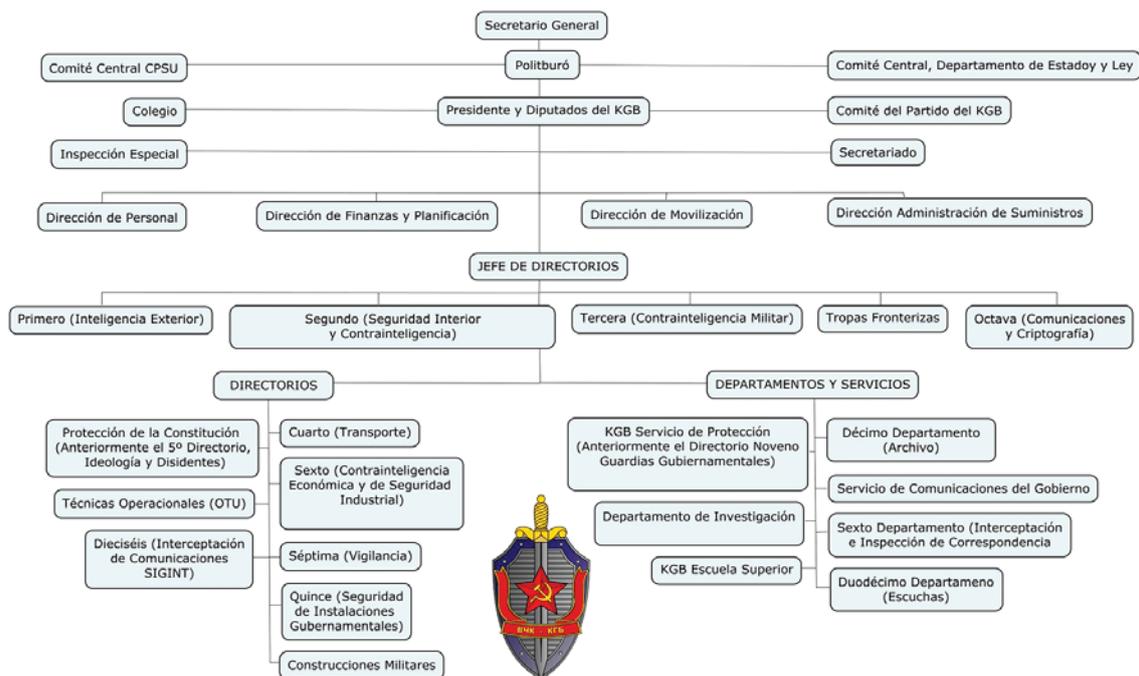
Image 2. Organisation of USSR's Domestic Intelligence (KGB).
Source: Author's own elaboration based on the work of Christopher Andrew and Vasili Mitrokhin (1999: 741).

In 1936, the first secret unit dedicated to ethnic cleansing and torture was established within the NKVD's Directorate for Special Tasks (Andrew, 2018: 654). The unit was tasked with carrying out targeted assassinations on the orders of the Kremlin (Richelson, 1995: 252-253). It remained in operation until 1954 (when it was reassigned to the 13th Department of the first KGB Directorate).

In 1941, the political police was transformed into the People's Commissariat in Charge of State Security (NKGB) (Barron, 1974: 394). And shortly afterwards, in 1946, the NKGB intensified its clandestine activities abroad (Lucas, 1966: 269), and especially in the United States (US), albeit as Ministry of State Security (MGB).

In 1947, the Committee of Information (KI) was created, taking over the responsibilities of of the MGB overseas section (Lucas, 1966: 269) and incorporated units of the Ministry of Foreign Affairs and the Military Intelligence Service (Barron, 1974: 395).

After Stalin's death in 1953, the Soviet security apparatus was restructured into a new entity, the Committee for State Security (KGB), which was assigned the functions of political police, clandestine operations and the surveillance and control of the USSR's borders (Lucas, 1966: 269), except for the illegal and covert operations of the Military Intelligence Service (GRU) (Barron, 1974: 395-296).
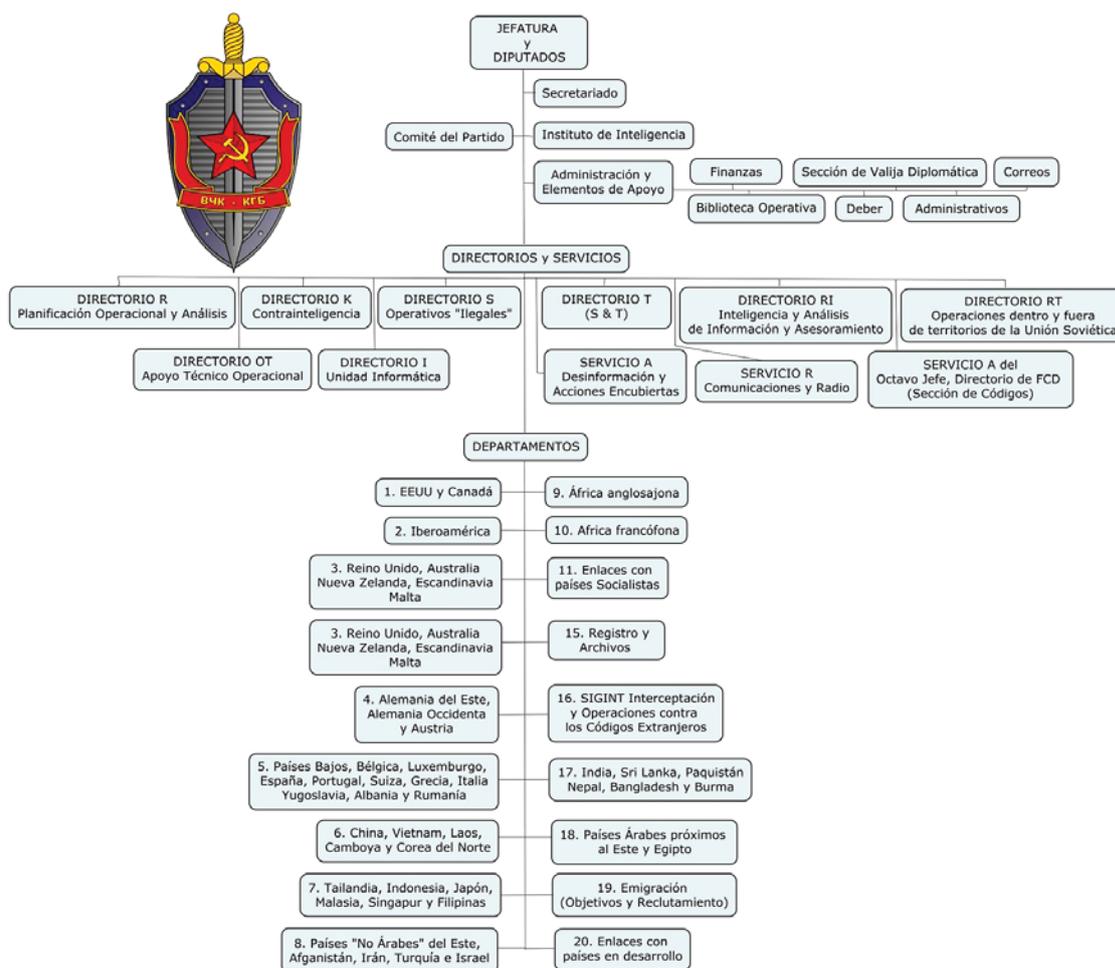

Image 3. Organisation of USSR's Foreign Intelligence (KGB).
Source: Author's own elaboration based on the work of Christopher Andrew and Vasili Mitrokhin (1999: 742).

From its inception, the KGB exercised effective control over land and sea borders (Barron, 1974: 25), the surveillance and investigation of citizens, as well as the residences and offices of Communist Party leaders (Barron, 1974: 25-26). The KGB not only monitored the interior of the USSR, but had a network of spies that eventually reached the fridges of Russian society, from the General Staff of the Red Army to the humblest village.

Such was the control exercised that it was very difficult for foreigners arriving in the USSR to escape the shadow of the security apparatus (Barron, 1974: 27). The KGB embedded its officers in key positions after deploying them in the colossal Soviet bureaucratic apparatus and in the Communist Party hierarchy (Barron, 1974: 26).

The power attained by the KGB and the trust placed in its officers led to it being entrusted with the custody of the USSR's nuclear warheads (Barron, 1974: 25).

4.2. *Federal Security Service (FSB)*

The current Federal Security Service of the Russian Federation (FSB) inherited its functions from the defunct KGB, although a considerable part of its human capital came from the Border Guard Service (PFS) (Riehle, 2022: 65), which had become the main agency of the internal security apparatus of the communist regime. Its resources and human capital are devoted to domestic intelligence and counter-intelligence activities.

Image 4. Organisation of the Domestic Security and Intelligence Service (FSB).
Source: Author's own elaboration based on the work developed by Kevin P. Riehle (2022: 66).

It could be argued that the FSB's counter-intelligence unit is, in fact, the remnant of what used to be second main directorate, and one of the main units, of the KGB. Its activities are aimed at thwarting the operations of foreign intelligence services operating on the territories of the federation, penetrating foreign legations, harassing their diplomatic staff and investigating Russian citizens with whom foreign diplomatic staff come into contact .

The FSB also has its own military counter-intelligence service, a remnant of the KGB's third main directorate, which monitors the loyalty of the armed forces and conducts investigations within military units (Remnick, 1991).

Finally, it inherited the KGB's "Alpha" and "Vympel" units[6] (the latter, an assassin squad that could be deployed around the globe) dedicated to the execution of covert special operations abroad (Andrew, 2001: 389).

4.3. *Foreign Intelligence Service (SVR)*

The SVR is Russia's foreign intelligence service, the apparatus in charge of developing intelligence activities abroad (Riehle, 2022: 61), and the direct descendant of the first main directorate of the KGB.

Russian foreign intelligence has a human capital of approximately 12,000 to 14,000 employees, a quarter of whom, just over 3,000, operate abroad. Its organisational structure is divided into three areas: "operational actions", "analysis" and "functional activities".

– Directorate PR (Political Intelligence) is responsible for developing political intelligence operations (Riehle, 2022: 62), and draws on personnel who were part of the KGB's main directorate.

– Directorate NTR (Scientific-Technical Intelligence) is in charge of the production of scientific-technical intelligence aimed at gathering operations and acquiring technologies to preserve security and defence against modern Western weapon systems (Riehle, 2022: 63), a successor to the former KGB T-Directorate.
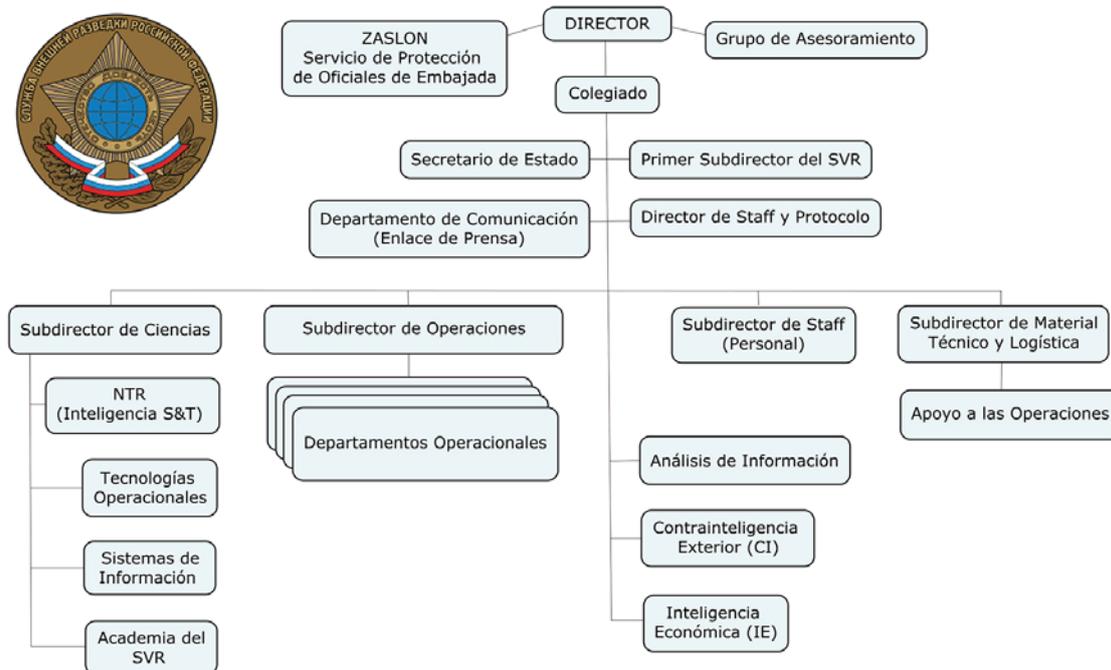
Image 5. Organisation of Foreign Intelligence (SVR).
Source: Author's own elaboration based on the work developed by Kevin P. Riehle (2022: 62).

6 Navruzbekbekov, Emran. FSB counter-intelligence (defected senior lieutenant of counterintelligence service). Available at: https://igorsushko.substack.com/p/fsb-counterintelligence-senior-lieutenant
https://igorsushko.substack.com/p/fsb-counterintelligence-senior-lieutenant-160

- Directorate ER (Economic Intelligence) is responsible for producing intelligence linked to the functioning of Western economic systems, with the task of influencing and interfering with them (Riehle, 2022: 63), with offices in the SVR's diplomatic stations abroad.

- Directorate S (Illegal Intelligence) is in charge of undertaking illegal operations and conducting missions in wartime environments, including war scenarios such as, for example, the "special military operation against Ukraine". To this end, it has a number of departments: the international area; recruitment and training of illegal operatives; and planning, financing and logistics for transport abroad. Missions are directed from overseas *rezidenturas* or stations (Riehle, 2022: 63).

- Directorate KR (Foreign Counter-intelligence) directs counter-intelligence operations and plans the penetration of foreign intelligence and security services, managing the missions from stations (Riehle, 2022: 64).

- Directorate MS (Support Measures) is in charge of developing support activities and undertaking "active measures", exploiting the intelligence gathered for the design and execution of influence operations in support of Russian foreign policy priorities (Riehle, 2022: 64).

Finally, the foreign intelligence service also has Zaslon teams (Riehle, 2022: 65), responsible for executing special operations and covert missions, with operational bases in diplomatic missions abroad.

4.4. *Main Directorate (GU)*

In totalitarian regimes, military intelligence structures coexisted with services of a political and police nature, and overlapped with other espionage organisations (Navarro, 2009: 49).

Similarly, the Russian Federation can count on the Main Directorate (GU), a military intelligence service that until 2010, operated under its former acronym "GRU" for Main Intelligence Directorate (Riehle, 2022: 73). It reports to the General Staff. Its primary mission is to gather information on military secrets related to military strategy, tactics and techniques, as well as to participate in intelligence operations (Barron, 1974: 397) aimed at the strategic defence industry of NATO countries.

The GU has military personnel in all embassies, from where they plan and execute operations and report back to Moscow through their own security channels and encryption methods. Most military attachés posted to diplomatic missions abroad are members of the GU (Barron, 1974: 397).

Military intelligence is also involved in clandestine operational arrangements (Barron, 1974: 397), although their targets include attacks directed against power transmission lines, oil pipelines, undersea cables and communications systems, as well

as large strategic technological and industrial complexes for the defence of NATO allies (Riehle, 2022: 179).
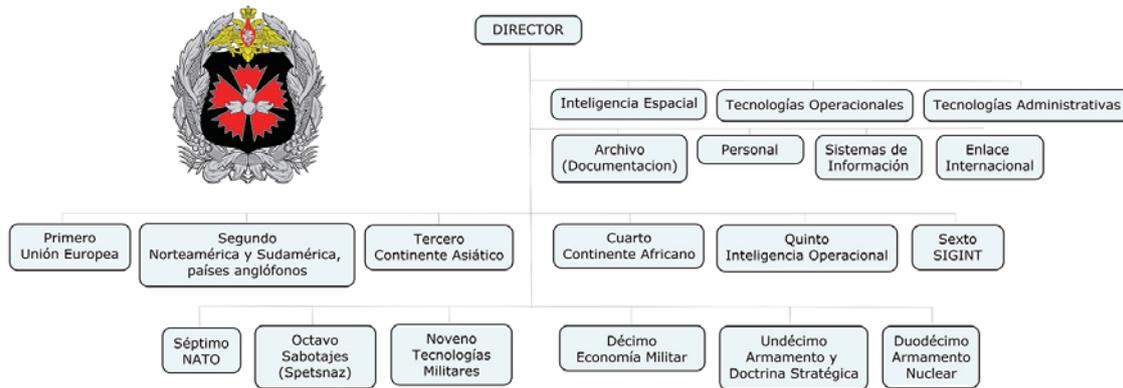

Image 6. Organisation of the Military Intelligence Service (GU).
Source: Author's own elaboration based on the work developed by Kevin P. Riehle (2022: 74).

It should be pointed out that GU activity revolves around three key focal points. The first is aimed at obtaining intelligence on the basic elements of a specific military force, which it might face in the future in a war. The second is directed at obtaining information and intelligence on strategic forces and nuclear and missile defence capabilities. The third is focused on intelligence gathering, analysis and planning of attacks on the critical infrastructure of countries that would support military intervention against the Russian Federation (Riehle, 2022: 165).

Intelligence gathering for military decision-making is a genuine GU activity (Riehle, 2022: 166), irrespective of whether the SVR manages the sources that provide information relaed to the Russian military from abroad.

5. A brief review of counter-intelligence errors: casuistry

In counter-intelligence, errors are a major concern for intelligence services. It is tempting to assume that foreign intelligence agencies will behave in a friendly manner, especially when they intervene in foreign countries they regard as adversaries. The basis of counter-intelligence work therefore consists of a thorough and individual examination of rival services (Ehrman, 2009: 46). This discipline is set out as a technical-analytical process whose goal is to understand the behaviour of the opposing service and to discern how it designs, plans, defines and executes its operations, because each service has different actions, as evidenced by the comparative study. Learning about their behaviour offers enormous potential for interpreting and guessing a wide variety of useful penetrations.

It is advisable to consider the following questions: should we know the history of counter-intelligence? Is it worth examining, analysing and learning from counter-intelligence failures and mistakes? Is it essential for counter-intelligence officers to be trained in casuistry?

James M. Olson, in his work *To catch a spy: the art of counterintelligence* (Olson 2019: 50), and "*he ten commandments of counterintelligence* (Olson, *et al.* 2004a: 251-258), states:

> "I find it inconceivable that any counterintelligence practitioner today could ply his or her trade without an in-depth knowledge of the Angleton era. Have our officers read Mangold? Have they read Legend and Wilderness of Mirrors? Do they know the Loginov case, HONETOL, MHCHAOS, Nosenko, Pollard, and Shadrin? Are they familiar with Aspillaga and the Cuban double-agent debacle? Have they examined our mistakes in the Ames and Howard cases? Are they staying current with recent releases like The Mitrokhin Archive and The Haunted Wood? I believe it is an indispensable part of the formation of any American CI officer... to study the CI failures of the past, to reflect on them, and to make sure they are not repeated".

Markus Wolf (Wolf, 1997: 232-235), considered communism's greatest spymaster and the top intelligence officer of the Eastern Bloc, expressed that:

> "The Union of Soviet Socialist Republics (USSR) was a sorry creature, poorly coordinated and doomed from birth, inferior in many ways to its arch-rival the United States. But, in truth, the Soviet services were able to achieve the best successes in the United States and Europe, before and during World War II, when they relied on the communist party and the intelligentsia in many countries, such as Germany, the United Kingdom and the United States, because the agents recruited during that period were the best and offered the USSR advantages in the nuclear race. Nobody betrays their country for money alone, although the Americans used money as a recruiting tool, and the KGB did the same".

5.1. Russian foreign intelligence successes

The success achieved by Russia's purely offensive foreign intelligence has shown that it has been excessively aggressive and violent. In reality, the recruitment and penetration of their illegals takes precedence if we equate this with the disparity of regular information gathering and disinformation propagation (Olson, 2004b: 67), in their infiltration of European Union and NATO countries. And one of the most recent episodes took place in the Netherlands, where seventeen Russian foreign intelligence and military intelligence officers (eight SVR spies together with nine GU spies) planned operations for the recruitment and penetration of their illegal agents[7].

Here, very briefly, are five events that we consider to be notable successes of Russian foreign intelligence in the West.

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[7] *NL TIMES.* (2022). Russians expelled from NL were spying on high-tech sector, recruiting informants: report. (Netherlands). Available at: https://nltimes.nl/2022/10/14/russians-expelled-nl-spying-high-tech-sector-recruiting-informants-report

The first case occurred in 1951, when Harry Frederich Houghton, a Royal Navy military attaché stationed at the British embassy in Warsaw, Poland, committed treason. The secret information provided to the Russians (delivered in London on the first Saturday of every month) focused on submarine weapons, antisubmarine warfare systems information, and British nuclear submarine technology (Andrew, 2015: 564-565). Houghton provided Russian intelligence with a significant amount of secret information.

The second case occurred in 1978, and involved Glenn Michael Souther, a US Navy sailor-photographer stationed on the *USS Nimitz* based in Naples, Italy. While at the Neapolitan naval base, Souther married an Italian woman named Patrizia di Palma. However, in collusion with his wife, he maintained a life far removed from a conventional marriage by engaging in frenetic pro-communist activity and expressing admiration for the USSR. What is surprising is that his superiors never reported the countless episodes in which Souther publicly and repeatedly expressed his dissatisfaction and disapproval of US government policies. The situation worsened in 1980, after he visited the Russian embassy in Rome to claim Soviet citizenship. He was recruited by the KGB and he began to bleed information and make a significant amount of documentary material available to Russian foreign intelligence (Olson, 2019: 157-164).

The third event occurred during the 1980s, perpetrated by Clayton Lonetree, a US Marine Corps sergeant stationed at the US embassy in Moscow. Sergeant Lonetree was recruited by the KGB through Violetta Seina, a 25-year-old intelligence officer who managed to seduce Lonetree. The marine sergeant's collaboration with Soviet foreign intelligence began after his transfer to the US embassy in Vienna, Austria, and consisted of providing them with the blueprints of the US diplomatic missions in Moscow and Vienna, including the identities of undercover agents operating in the USSR (Olson, 2019: 113-116).

A fourth case of treason came from Earl Edwin Pitts, an officer in the FBI's counter-intelligence office in New York City. Agent Pitts' activity focused precisely on Soviet intelligence operations in New York State. But in mid-1987, after being the victim of several episodes of humiliation due to demanding working conditions and family financial difficulties, he ended up betraying his country by offering his services to the KGB (Olson, 2019: 127-132). The documentation provided to Soviet foreign intelligence consisted of counter-intelligence operations, surveillance and observation methods, double agents and information that the New York FBI office had on KGB personnel who could be recruited.

Finally, the most outlandish case occurred in Italy in 2018, in the shadow of NATO's Allied Joint Force Command and the US Navy in Naples (Italy), at the hands of Maria Adela Kuhfeldt Rivera (known as Olga Kolobova), an SVR officer acting illegally in Europe. After settling in Naples, she used a jewellery design and the luxury goods trade business (Serein SRL) as a front to prove her residence in Italy. Maria Adele penetrated various social circles in Naples after forming a network of contacts that included US Navy officials who provided her with graphic documentation of the base and files containing confidential information and secrets. When her cover was blown,

Kuhfeldt fled to Moscow, using a passport with a serial number from a list of passports commonly used by Russian foreign military intelligence officers[8].

5.2. The use of double agents

From a skill-set point of view, the most challenging discipline of intelligence is counter-intelligence, and the most complex subspecialty of counter-intelligence is the double agent.

James M. Olson, former head of the CIA's Counterintelligence Division, and who held a position of enormous responsibility within the Directorate of Operations (Olson, 2019: 86), argues that: "Double agent actions are the caviar of counterintelligence operations, because there is nothing more delectable for a counterintelligence professional than to dupe his or her adversary, particularly one that prides itself on being clever and sophisticated, with a controlled case".

It is necessary to define what a double agent is, as the concept is very often misinterpreted and misused by journalists, writers and even officials themselves. And likewise, in terms of its terminology, when it is used to describe people such as Edward Lee Howard, Aldrich Hazen Ames, Harold James Nicholson, Edwin Earl Pitts, Jonathan Pollard and many others. Thus, the use of the term double agent is erroneous (Olson, 2019: 86-87).

No one can be a double agent without first being an agent. The FBI, CIA or any other US agency official is not an agent the sense of intelligence because CIA agents are case officers and FBI agents are special agents. The situation in Spain is very similar. On the other hand, the controversy arises when the term "agent" is used. Its use is enormously confusing because, in intelligence terms, "an agent is someone recruited by a foreign intelligence service". Accordingly, Robert Hanssen as well as Aldrich Hazen Ames were Russian agents, Jonathan Pollard was an Israeli agent, and Joey Chun was a Chinese agent, but "they were not double agents". They would have been if their recruitment by Russians, Israelis or Chinese was a ruse and they remained loyal and responsive to US intelligence (Olson, 2019: 86-87).

The double agent is used to provide the opposing service with false information, although this is a rare target. Deceiving the enemy with this methodology requires excellent planning and great subtlety because the opposing service is not stupid and often has the means to verify the validity of the double agent's reports.

We must emphasise how valuable it is for Spanish counter-intelligence to know how adversary intelligence services, such as Russian foreign intelligence, operate. And it is an essential step towards defeating them. Defectors and field penetrations can be

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8   Grozev, C. (2022). Socialite, widow, jeweller and spy: as a GRU agent she charmed NATO circles in Italy. *Bellingcat* (UK). Available at: https://www.bellingcat.com/news/2022/08/25/socialite-widow-jeweller-spy-how-a-gru-agent-charmed-her-way-into-nato-circles-in-italy/

of great help, but there is no better position to know what is happening on the ground than to have a cleverly infiltrated double agent.

In parallel, we have methods for initiating a double agent operation, although the most classic method is for the agent to enter a foreign embassy, ask to speak with the security or intelligence officer, and volunteer to cooperate (Olson, 2019: 104).

Ultimately, the ideal double agent should have good, but not spectacular, access. If that agent has significant access to an area considered a high priority for the opposing service, the agent will be enthusiastically recruited but will subsequently be required to provide an output that exceeds our willingness to hand over. Thus, double agent operations are extremely sensitive lines of action, so the material to feed the opposing service must match the claimed access to the double agent and be good enough to sustain the operation, but not too damaging to the service itself.

5.3. *Active measures (political warfare): disinformation and deception*

For decades the USSR sponsored large-scale hoaxes aimed at disorienting, confusing and inflaming international public opinion. Sometimes the subterfuges employed produced far-reaching effects, but in other situations they produced unpredictable consequences (Barron, 1974: 197). So the launching of such unpredictable activities, aimed at creating confusion and disorientation, ultimately harmed Soviet interests, making it yet another victim of its own fallacies.

Disinformation and deception originated in early Leninism, following the emergence of a contemporary concept called "*dezinformatsiya*" or disinformation, also defined as the "dissemination of false and provocative reports". Over the years, the KGB refined the practice and disinformation became much more complicated than what disinformation was defined as. It entailed providing forged or fabricated documentation, including letters, manuscripts and photographs of the like, and spreading false or ill-intentioned rumours and misinformation using outside agencies. Moreover, those visiting the country would be deceived, and other material actions were perpetrated to exert a psychological effect (Barron, 1974: 199). The techniques were exploited in a variety of ways to influence the policies of Western governments, thereby disrupting relations between countries and undermining people's trust in their leaders and institutions.

It should be stressed that the KGB conducted covert political operations that were initially labelled as "active measures" (political warfare) (Riehle, 2022: 190), focusing on covert political manipulation during the Cold War period (Andrew, 2015: 292). And the United States has been the primary target of active measures led by Russian foreign intelligence, which are at the non-violent end of the active measures spectrum: "influence operations designed to discredit the adversary" (Andrew, 2015: 293).

The extent of "active measures" became known to us thanks to information provided by Ladislav Bittman, a former Czech intelligence officer and defector,

who was deputy head of the "department of active measures and disinformation". Bittman described in detail how during the 1960s "entire bureaucracies in the Eastern Bloc administration were developed with the aim of confusing adversary countries and manipulating the facts", and how such projects were proposed and authorised. In his daily work, Bittman was required to acquire new professional skills as he had to learn how to gather, combine and entangle precise details. In order for disinformation to be successful, it had to respond partially to reality or at least to accepted views. For half a century, the leaking of stolen documents was standard procedure for the implementation of disinformation activities (Rid, 2020: 5-8).

Disinformation reached its peak in the mid-2010s, in the midst of the fourth wave of disinformation, having been reshaped by the use of new technologies and the internet (Rid, 2020: 14-15). The old art of slow, highly skilled, short-range and laborious psychological influence gave way to a new psychological influence that had become hasty, indiscriminate, remote and unconnected.

There is controversy about the difficulty of recognising an active measure because disinformation, when done well, is very difficult to detect, and especially when it is first made public. So it will be very useful to clarify what is an active measure and what is not. First of all, active measures are not spontaneous lies of politicians, but the methodical production of huge bureaucratic apparatuses. Disinformation was, and in many ways continues to be, the domain of intelligence services, albeit enhanced and professionally managed, being employed against foreign political opponents. Second, most active measures contain an element of disinformation: content may be falsified; sources may be imitated; the method of acquisition may be covert; specialist influencers may be something they are not; and online accounts involved in the appearance or amplification of an operation may not be real. Finally, an active measure aims to achieve an objective, such as weakening an adversary, but the means used can vary: creating divisions between allied nations; driving wedges between ethnic groups; creating friction between individuals in a political party or group; or undermining the confidence that certain groups have in their institutions. At the same time, active measures may be aimed at achieving a very specific purpose, such as eroding the legitimacy of a democratic government, destroying the reputation of an individual, or affecting the deployment of a weapons system (Rid, 2020: 10-11). Ultimately, projects are designed to facilitate a defined policy decision.

In 1992, the British Secret Intelligence Service (SIS) told the historian Christopher Andrew about the vicissitudes that led to the defection and extraction from Russia of Vasili Mitrokhin, an intelligence officer specialising in archives and documentation (Andrew, 2015: xxii-xxxix). The spy provided a wealth of top-secret documentary material from the third department of the KGB's foreign intelligence directorate (Andrew, 2015: 742), revealing the identities of "hundreds of illegal spies" then operating in the West. In other words, the documentation provided by Mitrokhin facilitated the task of tracking down and identifying true legends of Russian foreign espionage (Andrew, 2015: xxii-xxxix).

The meaning of the definition "active measures" (also offered by Mitrokhin to British intelligence) was as follows:

– The activity carried out by an operational agent aimed at influencing the domestic and foreign policies of target countries in the interests of the USSR (Riehle, 2022: 190). It was to weaken the political, military, economic and ideological positions of capitalism and undermine its aggressive plans, in order to create favourable conditions for a successful implementation of the foreign policy of the USSR, today the Russian Federation.

– It would involve one or more actions carried out clandestinely by intelligence officials, or the use of agents or other means on their own account, aimed at completing intelligence or counter-intelligence tasks (Mitrokhin, 2002: 11).

5.4. *Quiet measures: covert operations*

Intelligence has dual disruptive function. First, it is an operational activity in the sense of gathering, collecting and capturing information and intelligence; and second, it is the design, planning and execution of covert operations.

While knowledge-generating intelligence activities are developed through information collection to support the regime's decision-making process, clandestine and covert operations implement that very political decision (Riehle, 2022: 187).

It should be clarified that the definitions "clandestine" and "covert" do not mean the same thing. The clandestine conceals the operation, while the covert conceals the operator.

Thus, the definition "covert" means that the sponsoring government does not want to reveal its involvement, and such a methodology includes covert sabotage in which a target is damaged, such as when a bomb is detonated or when the service provided by a computer system is permanently disabled. The main element of covert activities is defined by the term "plausible deniability", whereby the action is visible but the identity of the perpetrator remains hidden and out of sight.

When it comes to covert operations in times of war, it is actually military officers who are responsible for carrying out incursions into enemy territory (e.g., the military invasion of Ukraine by the Russian army) in order to carry out various activities and operations. And it was defected intelligence officers during the Soviet era who provided an insight into the extent to which the armed forces were able to carry out their covert activities effectively.

Judging by the information provided by KGB defectors Oleg Lyaling, Oleg Kalugin and Vasily Mitrokhin, it was the DRG (Distraction Intelligence Groups) who, during the war, obtained the intelligence gathered on the adversary's targets and those who executed operations against them (Riehle, 2022: 188), with the aim of:

- Stirring up disorder in the enemy's rearguard functions.

- Disabling transport and communications.

- Spreading panic among enemy troops and the civilian population.

- Gathering intelligence on movements, armaments, militarily significant industrial facilities and their means of transport and communications.

- And assassinating the enemy's top and middle management, including political and administrative officials.

In July 2015, John B. Emerson,[9] as US ambassador to Berlin (Germany), opened the *Exposing Russian Disinformation in the 21st Century* conference, hosted by the Atlantic Council, the European Council on Foreign Relations and the Heinrich Böll Foundation, at which he argued that historical and current disinformation operations show a pattern of activity that can be described as "the 4D" approach:

- *Distort*. They twist real information; they hold on to a truth and reframe it in a different light to make it seem more or less appealing. Russian-driven activity using the World War II narrative, an undeniable talking point that they twist to achieve their political goals.

- *Distract*. They divert attention from real information, as happened in 2014 after the downing of Malaysia Airlines flight MH17 while flying over Ukraine. The Russian propaganda media conceived and disseminated multiple contradictory stories that lacked credibility, but all emphasised that responsibility did not lie with the Russian Federation. A similar case occurred with the Russian operations that leaked information on athletes from several countries who had allegedly violated doping rules. This was done to divert and take public attention away from the Russian doping programme.

- *Dismiss/Deny*. In March 2018, Vladimir Putin was able to boldly deny that Russian troops were involved in the seizure of Crimea and supporting insurgents in Ukraine, and deny that the Kremlin had any responsibility for the attempted assassination of Sergei Skripal (former GU officer).

- *Dismay*. They stir up fear, hatred or revulsion. Such as the claims that were spread in Russia in 2016 that German troops raped a girl in Lithuania.

Another category of "covert activities" that had been professionalised was kidnapping, and used as a weapon of last resort since the creation of the KGB's First Directorat . The *modus operandi* of kidnapping abroad remained largely unchanged. After locating political opponents or traitors of interest to the Kremlin, special

9   Emerson, John B. (2015). *Exposing Russian disinformation*. Atlantic Council Ukraine Alert. 29 June. (Berlin, Germany). Available at: https://www.atlanticcouncil.org/blogs/ukrainealert/exposing-russian-disinformation

teams would carry out abductions and assaults, and people would be transported hidden inside vehicles with diplomatic protection plates or driven to Czechoslovakia under false arrest. Once there, the final outcome depended on orders from Moscow (Richterova, 2023: 12-13).

The operations to eliminate people became an important issue for political and journalistic discussion in the West after the reported killings inside and outside Russia. The August 2020 attempt on the life of opposition leader Aleksei Navalny brought the plot into the spotlight.

Russia currently differentiates its covert assassination operations into three categories: "military targets", "political targets" and "traitors". At the same time, it divides the scenarios for such operations into two location types: "those perpetrated in the interior of the country" and "those executed elsewhere in the world" (Riehle, 2022: 201-202). Accordingly, the approach to eliminating opponents differs significantly whether they are perpetrated inside or outside Russia. Within the federation, military targets are by far the most important category, and the North Caucasus is a case in point (Riehle, 2022: 202). Military targets outside the federation are a relevant category, although generally speaking they are lower than those perpetrated inside the country. Political targets would be next on the list.

6. Use of structured analytic techniques by the counter-intelligence analyst

Before discussing the use of modern structured analysis techniques and their application to the discipline of counter-intelligence, we need to clarify some aspects related to the analysis of the behaviour of other services, as well as those related to counter-intelligence analysis itself.

As we have explained, from a scientific point of view, we must highlight the importance of the "intelligence cycle" and "the analyst's working methodology" as a system (Esteban *et al.*, 2007: 59), which has been defined as:

> "The process of generating and communicating new, accurate knowledge tailored to the needs and requirements of a user by obtaining and processing appropriate information. That is, a sequence of activities by which information is obtained and converted into knowledge (intelligence) and made available to a user".

Thus, intelligence production can be presented as a set of organised sequences over several stages and, at the same time, within its analysis, which consists of (Esteban *et al.*, 2007: 52): "[...] the systematic examination of available information by establishing relations and inferences in order to identify the most significant facts and elements of a phenomenon or situation".

6.1. The counter-intelligence analyst's tasks

As a scientific method, the analysis has a taxonomy and knows what it represents as a classification of the elements that make up a field of information, by identifying, naming and cataloguing the various objectives that it comprises and then organising them into groups based on common factors, in addition to the existing categories of methods. (Heuer and Pherson, 2015: 45). These include: "expert judgement"; "quantitative methods using expert-generated data"; "quantitative methods using empirical data"; and finally "structured analytic techniques". It is necessary for the counter-intelligence analyst to know the processes of deductive and inductive reasoning, the development and elaboration of diagrams, mind maps, concept maps and diagrams, besides making, confirming or dismissing assumptions. They also need the ability and knowledge to measure the degree of association between data sets and variables through the use of correlation and regression techniques, the elaboration of scenarios, the use of theoretical and mathematical models, or the use of software tools and programmes and computer, statistical and information mining support (Esteban *et al.,* 2007: 52.53).
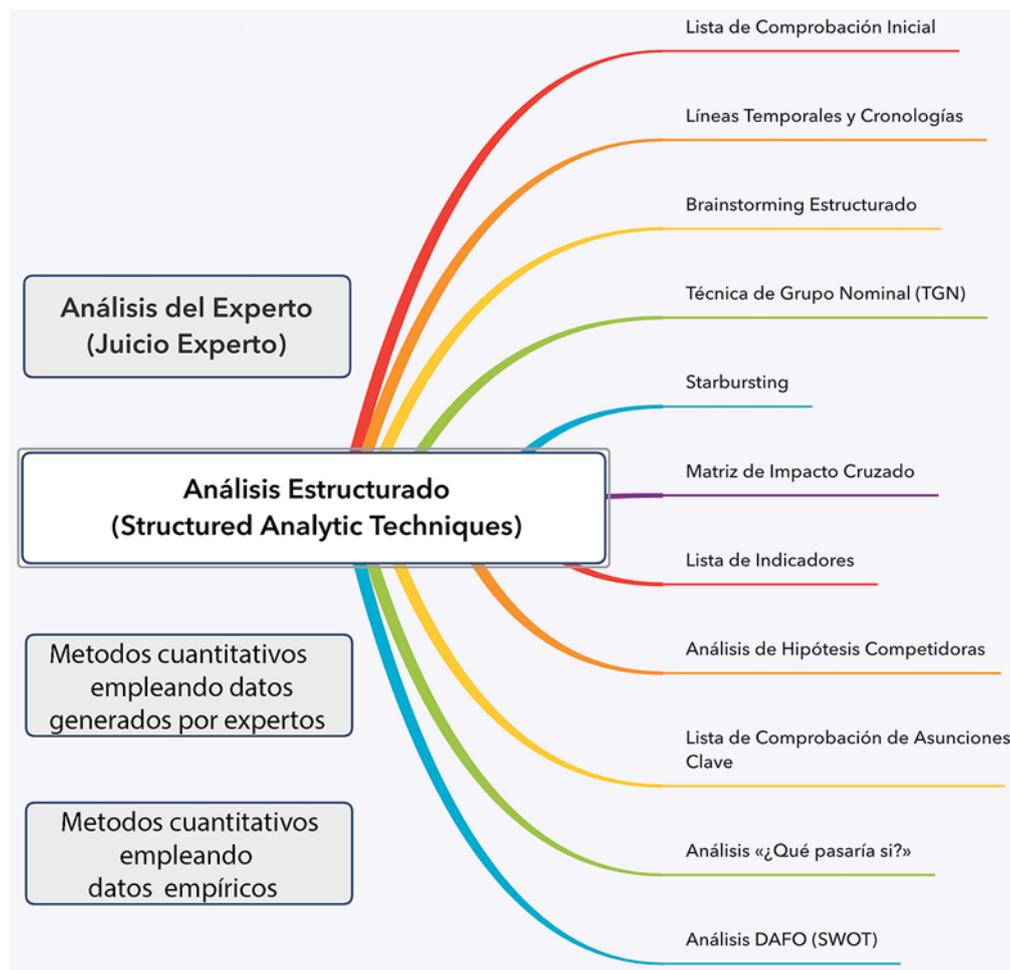
Image 7. Taxonomies of analytical methods. Author's own elaboration (2022).
Source: Richards J. Heuer Jr. & Randolph H. Pherson. SAGE Publications, Inc. (2015).

The work of the counter-intelligence analyst is focused on a very specific type of analysis, adapted to the deductive and inductive method and the validation or rejection of hypotheses, and includes the possibility of relying on other specific analytical methods such as structured analysis techniques.

6.2. Reasons for using structured analytic techniques

The duties of the counter-intelligence analyst can be described as the effort to protect operations from penetration, attack from hostile nations, and the protection of state secrets by studying and analysing opposing intelligence services and the many and varied factors that determine the behaviour of those services.

As the researchers Pherson and Heuer argue, it is one thing to advocate that analysts use structured analytical techniques in order to overcome the cognitive traps that lead to analytical failure (Pherson and Heuer, 2021): 17-22), but it is quite another to learn how to select, understand and use structured analytical techniques correctly. (Heuer and Pherson, 2015: 32-33). However, one of the main criticisms from the analysts themselves relates to the fact that they do not have enough time to use these techniques.

Consequently, we must rely on two common methodological models to address limitations in our memory functions (Heuer and Pherson, 2015: 32-33). The first has to do with decomposition, i.e. dismantling or deconstructing a problem into its component parts. So that each of these can be considered separately or independently. The second focuses on creating an orderly visualisation by placing the different parts on paper, a multimedia screen, tablet, or other device. This will allow us to understand how the different pieces of certainty relate to each other.

6.3. The most useful structured analytic techniques for counter-intelligence

Out of a total of sixty structured analytic techniques, we have selected eleven of them which are included in the following categories: "decomposition and visualisation techniques"; "idea-generating techniques"; "scenario techniques and indicators"; "hypothesis generation and testing techniques"; "cause-and-effect evaluation techniques"; "challenge analysis techniques"; and finally "decision support techniques".

Then, through a brief introductory presentation of the methodologies of interest, we will emphasise when to use them, what value they add, and what methodology should be used in each case.

Decomposition and visualisation techniques:

- Initial checklist: this is a methodological tool that allows us to initiate new projects, as long as long as we put them on the right track from the beginning, avoiding changes later on. The methodology saves time and increases the quality

of the final product (Heuer and Pherson, 2015: 70-71), and consists of answering a set of questions before starting the project (Hibss and Pherson, 2021).

- Chronologies / Timelines: two methodologies aimed at obtaining a graphical representation of time, allowing us to place events in the order in which they took place and the period elapsed between them, and can be used in cases where it is necessary to interpret times, the sequence of events and the identification or absence of key events, whether or not they have a cause-and-effect relationship (Heuer and Pherson, 2015: 75-78).

In counter-intelligence, they are of great help in identifying patterns and correlations between the occurrence and relationship of unrelated events. It can provide an overview, identify significant changes, uncover trends, emerging issues and anomalies, portray influences, set out hypotheses about unknown events and, finally, organise data in an understandable visual format.

One.   Idea-generating techniques:

- Structured brainstorming: a tool composed of a total of seven rules and twelve basic moves that allow us to identify a list of variables, driving forces, a wide range of hypotheses, stakeholders, indicators, sources of information, potential solutions to problems, outcomes and scenarios, suspects, and lines of enquiry (Pherson and Heur, 2021: 36). It is a tool designed to stimulate team thinking and creativity through a set of ideas that bounce from one place to another generating multiple perspectives and different points of view (Heuer and Pherson, 2015: 113-116).

- Nominal group technique: a methodology similar to structured brainstorming, which prevents a single person (a manager or senior executive) from dominating the discussion (Heuer and Pherson, 2015: 118-201).

Matriz de Impacto Cruzado

	Variable 1	Variable 2	Variable 3	Variable 4	Variable 5	Variable 6
Variable 1			+		-	
Variable 2			-	**+**	+	+
Variable 3	**+**			+		-
Variable 4		**+**			+	-
Variable 5	-	+		+		
Variable 6	-	+	**-**	-	-	

Direccion y magnitud del efecto:

+	**Strong Positive**
+	**Positive**
	Neutral
-	**Negative**
-	**Strong Negative**

Las variables 2 y 4 de la Matriz de Impacto Cruzado arriba mostradas tienen el mayor efecto sobre las otras variables, mientras que la variable 6 es la que tiene un mayor efecto negativo.

Image 8. Example of analysis using the cross-impact matrix. Author's own elaboration (2022). Source: Richards J. Heuer Jr. & Randolph H. Pherson. SAGE Publications, Inc. (2015).

- Starbursting: a methodological tool similar to structured brainstorming (Heuer and Pherson, 2015: 121-122). The starburst technique is designed to raise and generate questions rather than to elicit answers and ideas, by asking the following questions: Who? What? How? Where? When? Why?

- Cross-impact matrix: an extremely useful methodology to implement after structured brainstorming or the nominal group technique. Its use allows us to manage complex problems, especially when everything is connected to everything else (Heuer and Pherson, 2015: 122-126).

Los siguientes acontecimientos señalarían que un escenario particular está empezando a producirse.

Escenario uno: mantenerse a flote

• Un primer ministro con poco crédito reformista accede al poder como parte de un compromiso entre el presidente y la oposición política.

• Se forma un Parlamento, pero está dividido y es incapaz de producir legislación de importancia.

• El Gobierno cumple las normas básicas del Fondo Monetario Internacional, pero no consigue que se le asigne ayuda presupuestaria.

• El presidente mantiene algo de apoyo retórico a la modernización, pero declina tomar acciones contundentes.

• La Policía demuestra su capacidad para hacer frente a manifestaciones esporádicas pero progresa lentamente en el desarrollo de sus capacidades generales.

Escenario dos: descomposición de la democracia

• El presidente reniega públicamente de su

• El Gobierno viola su acuerdo con el FMI, lo que conlleva un descenso significativo de la ayuda prometida por otros importantes donantes internacionales.

• Manifestaciones públicas reúnen a miles de participantes y duran varios días.

• Resurgen grupos extremistas, o grupos revolucionarios solicitan aproximaciones alternativas al Gobierno.

• La Policía incrementa el nivel de sus tácticas represoras o, por el contrario, abandona en masa sus puestos.

• Sucesivos primeros ministros y sus gabinetes son forzados a dimitir.

• Se cancelan o aplazan indefinidamente las próximas elecciones legislativas.

Escenario tres: la situación se endereza

• El Parlamento acepta un primer ministro reformista y produce legislación de forma regular.

• Algunas industrias de propiedad estatal son privatizadas y se reduce el número de trabajadores para el Gobierno, condición exigida para la llegada de grandes cantidades de ayuda internacional.

• Los beneficios de la modernización y de la ayuda que gracias a ella reciben se hacen más aparentes y los líderes de la oposición política moderan el tono de su política antirreformista.

• Se celebran las elecciones legislativas con pocos episodios violentos y los expertos internacionales las declaran libres y justas.

• Los empresarios anuncian nuevas inversiones privadas que son capaces de generar decenas de miles de puestos de trabajo permanentes.

• Se reducen drásticamente los casos de violación de los derechos humanos por parte de la Policía.

Image 9. Example of an indicator list for monitoring emerging scenarios.
Source: Richards J. Heuer Jr. & Randolph H. Pherson. SAGE Publications, Inc. (2015). Revised (2022).

The technique of cross-impact analysis makes it possible to systematically examine how each factor, in a given context, influences other factors that appear to be linked or related. It provides an understanding of the complex situation that the analyst faces when forecasting future events, taking into account the dominant forces and potential future events that would influence a given outcome.

Three.   Scenario techniques and indicators:

- Indicator list: a very useful tool in counter-intelligence, aimed at obtaining and detecting tactical alerts, operational alerts and even strategic alerts against future developments which, if they were to occur, would have a huge impact. It consists of a set of indicators that constitute observable and reviewable phenomena in order to assist in monitoring developments, identifying possible emerging trends or warning of unanticipated changes.

- The indicator list can provide us with an objective basis by tracking developments and introducing rigour into the analytical process and strengthening credibility (Heuer and Pherson, 2015: 150-156).

- This is done through a pre-established set of observable actions, conditions, facts, circumstances or events that, if they were to occur, would clearly indicate that an event has been triggered or that there is a possibility that it could occur (Pherson and Heuer, 2021:38).

Four. Hypothesis generation and testing techniques:

- Analysis of competing hypotheses (AHC): a tool for making judgements in cases where mutually exclusive alternatives are required. The AHC tool aims to eliminate errors in matters that are controversial by identifying the precise areas of disagreement and looking for traces of evidence, as well as showing how the analyst reached their conclusions (Heuer and Pherson, 2015: 175-180).

Image 10. Example of the analysis of competing hypotheses technique (software "PARC ACH v.2.0.5").
Source: Richards J. Heuer Jr. & Randolph H. Pherson. SAGE Publications, Inc. (2015). Own revision (2022).

It is useful when dealing with potential deception, and in particular effective in providing feedback on technical issues, enabling better analytical results (Pherson and Heuer, 2021:37.

A simultaneous assessment of multiple competing hypotheses without analytical help is complicated, as retaining three, five or seven hypotheses in memory, and recording how each piece of information fits into each of the hypotheses, is beyond the capabilities of most analysts. It requires greater mental agility than the usual practice of looking for evidence in order to test a hypothesis that is considered the most likely answer (Heuer and Pherson, 2015: 175-180).

Five. Cause-and-effect evaluation techniques:

- Key assumptions checklist: a methodology of combining evidence and assumptions and preconceived ideas, which influence the way evidence is interpreted, allowing to question and make explicit the assumptions that guide the analyst in interpreting the evidence and reasoning on a problem (Pherson and Heuer, 2021: 37).

The technique requires a list of working assumptions to be drawn up at the start of the project in order to: identify specific assumptions that underpin the basic line of analysis; gain a better understanding of the fundamental dynamics at play; gain insights and new ideas; discover hidden relationships and links between key factors; identify developments that would result in the abandonment of an assumption; and, finally, avoid surprises when information emerges that invalidates old assumptions (Heuer and Pherson, 2015: 198-203).

Six. Challenge analysis techniques:

- What-if analysis: a tool to alert the command or decision-making body to an event that might occur. It is used to analyse unexpected scenarios that would have consequences if they were to occur. It is based on the existence of a supposedly sudden or random event accompanied by a potential conflict (Pherson and Heuer, 2021: 37-38).

The analyst perceives and represents how the event would occur and what its consequences would be (Heuer and Pherson, 2015: 242-246).

Seven. Decision support techniques:

- SWOT analysis: a tool used by large companies, multinationals and business organisations due to its ease of use, which can be exploited by a single analyst.

What is its purpose? Assessing and scaling strengths, weaknesses, opportunities and threats inherent in any plan or project. It enables useful information to be generated with little effort, and brings it together in a framework that serves as a basis for further analysis (Heuer and Pherson, 2015: 299-231). In short, it is about designing and elaborating a plan to achieve a specific objective.

Análisis DAFO (SWOT)

		Positivas	Negativas
		Fortalezas	**Debilidades**
I n t e r n a s		• Confecciona una lista con los atributos de la organización que resulten útiles para consecución del objetivo.	• Confecciona una lista con los atributos de la organización que sean perjudiciales para la consecución del objetivo.
		Oportunidades	**Amenazas**
E x t e r n a s		• Confecciona una lista con las condiciones externas que sean útiles para la consecución del objetivo.	• Confecciona una lista con las externas que podrían ser perjudiciales para alcanzar el objetivo.

Image 11. Example of the SWOT analysis technique.
Source: Richards J. Heuer Jr. & Randolph H. Pherson. SAGE Publications, Inc. (2015). Own revision (2022).

7. *Conclusions*

The lack of trust within societies is a problem for modern states because it ends up feeding grounds for suspicion back into society. In such an environment, mistrust becomes the main basis of what counter-intelligence theory is all about. If all people were trustworthy, the work and activities of counter-intelligence units would be unnecessary. For these reasons, counter-intelligence is considered the most laborious, complex and difficult intelligence activity.

Nevertheless, counter-espionage was one of the most important and active dimensions of the rivalry and confrontation between the two main opponents, the West and the communist bloc, with Russia taking the lead.

It is important to underline the disruptive task of counter-intelligence departments as an offensive tool to counter threats. And following this line, we have described the main functions of the intelligence services whose mission is to detect and neutralise espionage intrusions perpetrated by adversary services operating on their own territory. In order to carry out these capabilities, but above all to face the challenge that Russia represents, it is necessary to have trained human capital and suitable instruments to counter the threat posed by its offensive intelligence and counter-intelligence.

We highlighted the transcendence of the double agent in counter-intelligence activities as he or she constitutes a disruptive offensive instrument against the thrust

of espionage, and who has the necessary ingredients to achieve successful penetrations into the ranks of rival services that intend to operate in Spain.

However, if we look the known counter-intelligence case load compared to the West's, we can note that the most successful incursions came from the Eastern Bloc. However, the lessons learned in each case provide relevant and pedagogical knowledge.

Finally, the more expert knowledge we have about the workings of Russian intelligence and foreign espionage in our country, the greater our chances of success.

We must conclude by stressing that counter-intelligence analysis has never been more necessary for political leaders and decision-makers. Recommendations are made in a highly technological global environment (in contrast to the bipolar dynamics between the Soviet Russian and Western blocs), with a significant number of failed states, proliferation, regional crises and international differences, emerging threats and the participation of non-state actors on the ground, in a context conducive to important transformations in complex areas such as technology and society. Our proposals are addressed to the analyst with the aim of overcoming criticisms of failure and increasing his or her analytical skills by studying and implementing a set of procedures for improvement via the use of structured analytic techniques.

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Does International Humanitarian Law have an expiration date? The temporal dimension of prolonged belligerent occupations: a case study of Palestine

Abstract

The purpose of this paper is to examine the suitability of International Humanitarian Law as a legal framework for protracted belligerent occupations. Through a case study focusing on the occupation of Palestine, we will attempt to shed light on the extent to which the provisions of International Humanitarian Law are legally applicable to belligerent occupations that are significantly protracted in time and, if so, whether the temporal element requires adjustments in the application of this body of law. The results of our study suggest that, while the law of belligerent occupation may permit differential legal treatment between nationals of the occupying state and those of the occupied territory, this does not mean that the occupier can establish a system of discrimination and oppression in the long term, under the legal cover of the temporary nature of the occupation

Keywords

Prolonged military occupation, Legal loopholes, International Humanitarian Law, Human rights, Palestinian-Israeli conflict.

1. Introduction

Two thousand twenty-two saw the highest number of Palestinian deaths by Israeli security forces in the past 17 years and the highest number of Israeli deaths since 2016[1].

Israel's presence in the Occupied Palestinian Territories (OPT) dates back more than half a century to the Six-Day War of June 1967, in which Egypt was stripped of the Sinai Peninsula and the Gaza Strip, Jordan of the West Bank and East Jerusalem, and Syria of the Golan Heights. Although the 1979 Camp David Accords ended decades of conflict between Israel and Egypt, they left the question of Palestinian self-determination unanswered[2].

The Palestinian right to self-determination[3] has been systematically ignored by Israeli leaders, as is evident from the following words of former Prime Minister Golda Meir: "It was not as though there was a Palestinian people in Palestine considering itself as a Palestinian people and we came and threw them out and took their country away from them. They did not exist"[4].

This denial of the existence of the Palestinian people[5] has been echoed by authors such as Karsh: "In 1948, no Palestinian state was 'occupied' or destroyed to make way for the establishment of Israel [...] Palestine had never existed as a distinct political entity" (2019: 45-51). However, this has been rejected by another group of jurists who have soundly defended the Palestinian people's right to self-determination[6].

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1   UN (2023). Occupation 'eating away' at Israeli, Palestinian societies: Türk. UN. 3 March [accessed: April 2023]. Available at: https://news.un.org/en/story/2023/03/1134142

2   Notwithstanding this, the Palestinian-Israeli conflict dates back at least to the United Nations (UN) Partition Plan of 1947, which divided the British mandate into an Arab and a Jewish state, leading to the creation of Israel in 1948. The subsequent Arab-Israeli war ended in 1949 with Israel's victory and the division of the disputed territory into: Israel, the West Bank and Gaza.

3   This right has been recognised as an *erga omnes* principle by the ICJ-*cf.* ICJ, *East Timor (Portugal v. Australia)*, Judgement, 30 June 1995, *ICJ Reports 1995*, p. 90, par. 29; ICJ, *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, 9 July, 2004, *ICJ Reports 2004*, pp. 136-203, https://www.icj-cij.org/en/case/131 (Wall Advisory Opinion). p. 136, par. 155 –and a fundamental right– *cfr.* ICJ, *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, 25 February 2019, *ICJ Reports 2019*, par. 144. It has been enshrined in: the UN Charter (26 June 1945) under article 1.2; UN GA, article 1.1 of the *International Covenant on Civil and Political Rights*, 16 December 1966, *UNTS*, vol. 999, no. 171; UN GA, *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the UN*, 24 October 1970, A/RES/2625 (XXV).

4   Giles, F. (1969). Golda Meir: Who can blame Israel. *Sunday Times*. 15 June.

5   Rejecting the existence of a Palestinian people is the first step towards denying their right to self-determination: "A special problem arises in relation to the right to self-determination of peoples. First, while this is a human right, it applies only to peoples. Not every population of an occupied territory is a people" (Sassòli, 2005: p. 677).

6   Falk states: "Sovereignty with respect to the Occupied Territories continues to reside with the Palestinian people" (1989, p. 44); Roberts notes: "There was also, even before 1967, some evidence of a tendency to view the inhabitants of Palestine as a people, and as candidates for self-determination [...] the international community has come to accept [...] there is a Palestinian people; that it has a right of self-determination" (1990, 44-103).

Moreover, after some timid advances in the recognition of Palestinian statehood in the aftermath of World War I,[7] there is no longer any doubt that it is a firm position of the international community: Palestine has been an observer state at the United Nations (UN) since 2012 and a member of the International Criminal Court (ICC) since 2015.

Focusing our attention on the case of the Palestinian question, the purpose of this article is to examine the adequacy of International Humanitarian Law (IHL) as a legal framework for *prolonged* belligerent occupations. Against the backdrop of the Russian invasion of Ukraine, which is expected to lead to a protracted occupation,[8] we need now more than ever an analytical framework for the impact of extended occupations on the application of IHL. Thus, we will try to shed light on whether all IHL provisions are legally applicable to belligerent occupations that, like Israel's in Palestine, have extended considerably over time and, if so, whether the temporal factor requires adjustments in the application of this body of law.

For this paper, we take as a starting point an outline of how the notion of military occupation and its regime fits in the general legal framework. Subsequently, we will explore the temporal dimension of belligerent occupation, focusing on the conservationist principle[9] —enshrined in Art. 43 of the Hague Regulations and Art. 64 of Geneva Convention IV (GC IV)— and the prohibition on annexation, as well as the academic debate concerning prolonged occupation as a distinct legal category. We will then examine the question of whether the temporal factor precludes the application of certain rules of IHL, through a detailed analysis of Art. 6(3) of GC IV of 1949 and Art. 3(b) of Protocol Additional to the Geneva Conventions of 1949 and relating to the Protection of Victims of International Armed Conflicts, 1977 (AP I). We will also analyse the extent to which the protracted nature of an occupation extends the occupier's legislative power and the notion of military necessity, using the Israeli occupation in Palestine as a case study.

2. Legal outline of belligerent occupation

The scope of military occupation has been delimited by convention and case law, but its verification in reality is no easy task. To do so, we need to understand the systematic position of the law of belligerent occupation, as a branch of *jus in bello,* and its scope of application.

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7   Professor Vacas points out that "Article 9 of Protocol XII of the Lausanne Peace Treaty, [...] between the Allies and Turkey, as heir to the defeated Ottoman Empire, refers to the states carved out of Turkey which, according to the Treaty itself, were Iraq, Syria and Palestine". Moreover, "two years later, the Permanent Court of International Justice had occasion to interpret this question in the Mavrommatis case, stating clearly: "Palestine is subrogated as regards the rights and obligations of Turkey" (2015: 1-43).

8   Washington sources now suggest that Russia's occupation of Ukraine could last up to 20 years. See Basset, M., Mars S. and González, M. (2022). Ofensiva de Rusia en Ucrania [Russia's offensive in Ukraine], *El País*, 6 March 2022, [accessed: April 2023]. Available at: https://elpais.com/internacional/2022-03-06/tres-escenarios-para-una-guerra-larga-y-sangrienta.html

9   In this article we will use this translation of the English term "conservationist principle".

2.1. The concept of belligerent occupation under IHL

The notion of occupation is defined in Art. 42 of the Hague Regulation:[10] "territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation applies only to the territory where such authority is established, and in a position to assert itself."

In addition, the International Criminal Tribunal for the former Yugoslavia (ICTY) defined occupation as: "a transitional period following invasion and preceding the agreement on the cessation of hostilities"[11]. It is thus an eminently provisional situation, it ends with the ratification of a peace treaty between the parties or the *debellatio* of the defeated front (Benvenisti, 2008): 622). As such, it does not alter the sovereign prerogatives of the occupied state (Fiore, 1865: 177).

It could therefore be argued that the notion of military occupation rests on two pillars: on the one hand, the *de facto* and not *de jure* control of territory by a foreign state, without any legal legitimacy, and, on the other hand, a conflict of interests between the occupying forces and the local population (Roberts, 1990): 44) which is "obedient by submission" rather than "by loyalty" (Arai-Takahashi, 2009: 43).

In this sense, for a territory to be considered occupied, it must be under the effective control of foreign military forces (Dinstein, 2009): 31). Specifically, according to the ICTY's *Naletilic* judgement, the occupying power needs to have replaced the authority of the overthrown government, i.e. it must have a sufficient presence in the territory or the capacity to deploy its troops rapidly. Indeed, as the Nuremberg Tribunal pointed out, unlike an invasion —which is a mere military operation— occupation amounts to an effective, coercive and non-consensual substitution (Dinstein, 2009): 38) of the government overthrown by the occupier, regardless of its duration (Ferraro, 2012: 885).

2.2. The contours and scope of the law of belligerent occupation

If these criteria are met, the IHL of belligerent occupation, a constantly evolving body of law, is applicable; it comprises Art. 42-56 of the Hague Regulations, Arts. 27-34, 47-78 of GC IV and AP I (Milanovic, 2014: 164). In the Israeli-Palestinian conflict, although neither Israel, Egypt, Jordan nor Syria have ratified the 1907 Hague Regulations (Roberts, 1990: 62), they are subject to them, as well as to GC IV, due to

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10   The definition has been extended by Common Art. 2.2, GC I-IV, to include cases of occupation without armed resistance.

11   *Cfr.* ICTY, *The Prosecutor v. Mladen Naletilic and Vinko Martinovic,* Case no. IT-98-34-T, Judgement (Trial Chamber), 31 March 2003 (*Naletilic* judgement), p. 72, par. 214.

their customary nature, as confirmed by the International Court of Justice (ICJ)[12]. As for AP I, only Jordan and Syria have ratified it, but its customary character is defended in legal theory[13].

These are crucial legal instruments for the protection of the civilian population falling into the hands of the occupier. The Hague Regulations safeguard the personal integrity and private property of the occupied population and the national sovereignty of the overthrown government (Benvenisti, 2008): 622), with GC IV being the equivalent of a bill of rights for the occupied population (Fox, 2012: 240).

The law of belligerent occupation, also known as *jus in bello, has developed within IHL.* It applies from the beginning of the armed conflict, according to Art. 2 GC IV, regardless of whether the war was justified under *jus ad bellum* or not, as they are two independent legal systems (Ferraro, 2012: 133-142; Sassòli, 2005: 661). As the Nuremberg Tribunal emphasised, the lawful or unlawful character of the occupation has no bearing on the regulation by IHL of the obligations of the occupier and the occupied population[14]. As will be seen below, Art. 47 GC IV enshrines the principle of prohibition of annexation, namely a prohibition on recognising the effects of the unlawful use of force, including any occupation. Nevertheless, since the prohibition of annexation is a matter of *jus ad bellum*, it does not exclude the application of the law of belligerent occupation as a branch of *jus in bello*, according to Art. 47 GC IV (Arai-Takahashi, 2009): 44; Milanovic, 2014: 178).

While occupations are often linked to war, they can occur without, or even after, hostilities[15](Dinstein, 2009): 31; Kolb, 2002: 291; Schwarzenberger, 1968: 317) because the occupier's powers are *de facto,* not *de jure* (Arai-Takahashi, 2009: 42; Imseis, 2005: 103; Oppenheim, 1917: 363-364). When the occupier's authority is only temporarily or locally weakened and he is fully capable of re-establishing it, the occupation cannot be considered concluded (Milanovic, 2014: 177)[16].

3. The temporal dimension of belligerent occupation

Although the legal definition of military occupation does not refer to time, it is inherently presumed to be temporary (Arai-Takahashi, 2009: 42; Benvenisti,

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12   See, ICJ. (2004), *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,* 9 July 2004, *ICJ Reports 2004*, (Wall Advisory Opinion), par 89.

13   *See infra,* section 3.2. on the customary character of Art. 3(b) AP I.

14   See, List *judgement, op. cit.,* par. 5.

15   *E.g.*, Uganda's occupation of the Democratic Republic of Congo (DRC) began when the DRC withdrew its support for the presence of foreign troops, *see* ICJ. (1995). *Democratic Republic of the Congo v. Uganda, Judgement on the Armed Activities on the Territory of the Congo*, 19 December 2005, *ICJ Reports 2005*, pp. 254-255 (*Armed Activities* judgement).

16   In support of this assertion, the Nuremberg tribunal held, in its *List* judgement, that the German occupation of Yugoslavia was without pause because "Germans could at any time they desired assume physical control of any part of Yugoslavia".

2008: 621; Fiore, 1865: 444; Imseis, 2005: 103)[17]. Its regulation is therefore based on the conservationist principle[18] or the minimalist principle[19] and the prohibition of annexation, without the protracted nature of an occupation giving rise to a separate legal category precluding the application of the aforementioned principles.

3.1. *The prohibition on annexation*

The prohibition of annexation, enshrined in Art. 47 of GC IV, prohibits the occupying power from extending its sovereignty over all or parts of the occupied territory (Arai-Takahashi, 2009). The origins of this customary principle can be traced back to several arbitral decisions in the inter-war period, whereby a mere armistice, unlike a peace agreement did not allow for the legitimate annexation of occupied territory[20]. In the same vein, the UN General Assembly has reaffirmed that:[21] "The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force."

It follows that the prohibition on annexation is closely linked to the prohibition of the use of armed force and the obligation to respect the territorial integrity of a sovereign state, enshrined in Art. 2.4 of the UN Charter.

3.2. *The conservationist principle*

The conservationist principle, provided for in Art. 43 of the Hague Regulations and Art. 64 of GC IV, obliges the occupying power to respect the *status quo ex ante* of the occupied territory. It can therefore be seen as a division of powers between the occupying power and the deposed government (Fox, 2008: 236). Moreover, this

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17   Supreme Court of Israel, *Beit Sourik Village Council v. The Government of Israel et al.* Case No. HCJ 2056/04, Judgement, 30 June 2004, par. 27; Supreme Court of Israel, *Zaharan Yunis Myhammad Mara'abe et al. v. Prime Minister of Israel et al.* Case No HCJ 7957/04, Judgement, 15 September 2005, par. 22.

18   In this article we will use this translation of the English term "conservationist principle". It is the antonym of the transformative tendency of prolonged occupations, *see* section 5.

19   In this article we will use this translation of the English term "minimalist principle".

20   *See* Ottoman Public Debt Arbitration, Award, April 18, 1925, *Annual Digest and Reports of Public International Law Cases,* vol. III, pp. 78-79; British-American Arbitral Tribunal, *Iloilo Claims,* November 19, 1925. Available at: https://jusmundi.com/en/document/decision/en-iloilo-claims-several-british-subjects-great-britain-v-united-states-award-thursday-19th-november-1925; Hungaro-Yugoslav Mixed Arbitral Tribunal, *Alexandre Kemeny v. Serbo-Croate-Slovenia,* September 13, 1928.

21   UN GA, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the UN Charter, 24 October 1970. A/RES/2625 (XXV). Annex, par. 10, first principle.

customary principle is embodied in the Fauchille Doctrine (1921), which prohibits the transformation of the institutional architecture of the occupied territory[22].

Conceptualised early on by Fiore (1865), this principle developed from the premise that the validity of reforms introduced by the occupier expired at the end of the occupation unless they were supported by the local population[23]. Thus, Art. 43 of the Hague Regulations was originally conceived as a limit to the legislative power of the belligerent occupier (Schwenk, 1945: 393-416) as stated by the Liège Court of Appeal[24]. The international customary nature of this principle was recognised in the *List* judgement from the Nuremberg Trials and in the *Wall Advisory Opinion* of the ICJ (Arai-Takahashi, 2009: 63; Sassòli, 2005: 662)[25]. It is also codified in the precepts analysed in the following lines.

3.2.1. Respect for local law by the Occupier, in accordance with Art. 43 of the Hague Regulations.

Article 43 of the Hague Regulations provides: "The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country[26]".

The term "public order" was interpreted at the 1874 Brussels Conference[27] as security or general safety (Arai-Takahashi, 2009: 92-107; Power, 2014: 350; Schwenk, 1945: 398). The French version used *vie publique* which was interpreted as including "the social functions, ordinary transactions that make up everyday life" but it was erroneously translated into English as "safety" instead of "public life" (Dinstein, 2004; Sassòli, 2005): 663. Furthermore, the term "laws in force" should not be interpreted literally, as it includes "the constitution, decrees,

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22 "La situation de l'occupant est éminemment provisoire, il ne doit pas bouleverser les institutions du pays" [The occupier's position is entirely provisional, it must not disrupt the country's institutions], (Fauchille, 1921).

23 "[S]econdo I nostri principii essendo le nazioni tutte eguali ed autonome, ed avendo l'egual d[i]ritto di sovranità nel loro territorio, non possono soggiacere al dritto della forza, nè le loro terre possono passare nel domino del vincitore si questo arbitrariamente e violentemente le avesse occupate" (Fiore, 1865: 177)

24 *See* Court of Appeals of Liège, *Mathot v. Longué,* 19 February 1921, *Annual Digest of Public International Law Cases,* vol. 1, 1932, pp. 463-465. The appeal against the German Ordinance of 8 August 1918 was dismissed on the grounds that a recognition of the occupier's legislative power would imply "an insoluble conflict between the decrees of the legal authority and those issued by the de facto power [against] the absolute character of sovereignty".

25 List Judgement, *op. cit* . p. 65; Wall Advisory Opinion, *op. cit.* par. 89.

26 This concept was contained in arts. 2-3 of the Brussels Declaration of 1874, but it was merged into one to avoid, as stated at the 1899 Hague Conference, the legislative competence conferred in Art. 3 being interpreted too broadly.

27 *See* Ministry of Foreign Affairs, *Actes de la conférence de Bruxelles de 1874 sur le projet d'une convention internationale concernant la guerre : protocoles des séances plénières [Minutes of the 1874 Brussels Conference on the draft for an international treaty on war: protocols of plenary meetings],* Paris: Librairie des Publications Législatives, 1874.

ordinances, court precedents [...] administrative regulations and executive orders" (Sassòli, 2005: 669; Schwenk, 1945: 398) but excludes war measures,[28] so that the conservationist spirit protects the legal and institutional order of the occupied state in its entirety (Fauchille, 1921).

3.2.2.   *The occupier's limited legislative function according to Art. 64 GC IV*

Art. 64 of GC IV establishes the threshold of military necessity that authorises the occupier to legislate and substitute existing local regulations (Dinstein, 2004: 5):

> "The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. [...]
>
> The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them".

The first paragraph refers to local criminal laws and two situations in which they may be modified, as an exception to the conservationist principle, namely: in cases where (i) they constitute a threat to the security of the occupier and (ii) where they may hinder the implementation of GC IV itself. The second section, on the other hand, refers to legislation in general and mentions other situations in which the *status quo* may be altered, such as (iii) the need for orderly governance of the territory (Sassòli, 2005: 670)[29].

3.3.   *The two exceptions to the conservationist principle*

It follows from the above that the expression "unless absolutely prevented" in Art. 43 of the Hague Regulation, qualified by Art. 64 of GC IV, refers not only to situations of material necessity, but also to situations of legal necessity, which allows the occupier to legislate both out of (i) military necessity and (ii) the requirement to comply with GC IV (Sassòli, 2005: 670).

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28   *Cfr.* District Court Rotterdam, *Cillekens v. DeHaas case*, 14 May 1919.

29   However, according to some legal scholars, both the first and second paragraphs refer to legislation in general, not only to criminal law (Gasser, 2014: 501-591).

3.3.1. Military necessity

The concept of military necessity (Imseis, 2005: 109)[30] has been paired with the notion of "as far as possible" in Art. 43 of the Hague Regulation (Dinstein, 2004), as an exception to the conservationist principle (Garner, 1920: 86). Indeed, legal doctrine points out that the aforementioned art. 43, as well as art. 64.2 of GC IV, allow the occupier to modify the laws in force, if it is sufficiently justified on military grounds, that is, when it is necessary for the safety, effectiveness and probability of success of his troops (Hyde, 1922: 368; Fenwick, 1934: 486), whether imperative for the war effort, public safety or social welfare (Stauffenberg, 1931: 86-119), to preserve its security (Oppenheim, 1917: 349-350; Sassòli, 2005), to avoid harmful contingencies (Wilson,1939: 315) or any other insurmountable obstacles (Meurer, 1907: 338). It thus refers o the military interests of the troops as a whole, without extending to the security of the occupier himself outside the occupied territory[31].

Given that military necessity was already taken into account in the drafting of IHL rules, which rest precisely on a balance between the principles of humanity and military necessity (Imseis, 2005: 110; Koutroulis, 2012: 189), military considerations cannot be used as a reason for not applying these rules (Pellet, 1992: 169), unless the provision in question specifically provides for this (Kretzmer, 2012: 207-236). However, some authors have blurred the contours of the notion of military necessity in order to increase the legislative powers of the occupiers in prolonged occupations. From this perspective, some legal scholars (Dinstein, 2004; Schwenk, 1945) and the Israeli Supreme Court itself, as we will see in section 5 of this article, expand the concept of military necessity to include not only the security *of troops*, but also the general political and economic interests *of the State* in replacing local regulations or institutions.

In contrast, other jurists oppose the use of military necessity as a reason to alter the institutional and legal order of the place (McCoubrey *et al*, 1992; McNair *et al*, 1966). Indeed, according to the literal wording of the aforementioned art. 43, the occupier may rely on military considerations to legislate not for its own strategic convenience but only when it is essential for the security of its troops. As the *Milaire* decision underlined, the purpose of Article 43 is "not to place the occupant in the benefit of a privilege or a right, but, on the contrary, to impose an obligation on him"[32]. We must therefore insist that this precept was adopted to guarantee that the occupier would maintain public order and public life in the occupied territory and in the absence of

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30   See US War Manual: "Only that degree and kind of force, not otherwise prohibited by the law of armed conflict, required for the partial or complete submission of the enemy with a minimum expenditure of time, life, and physical resources may be applied", *see* US Department of the Navy, US Marine Corps and US Coast Guard. *The Commander's Handbook on The Law of Naval Operations* (Naval Warfare Publications, 1995).

31   The Israeli Supreme Court itself noted that "military needs are his [the commander's] military needs in the [occupied] area, and not national security interests in the wide sense", *see* Supreme Court of Israel, *Jamayat Askan v. Commander of IDF Forces in the Judea and Samaria region*, Case no HCJ 393/82, Judgement, 12 December 1983 (*Askan* judgement).

32   *Cfr*. German-Belgian Mixed Arbitral Tribunal, *Milaire v. German State* (1923).

insurmountable obstacles. However, it has been exploited to extend the occupier's discretion indefinitely by turning the proviso "unless absolutely prevented" into a catch-all for any geopolitical interest of the occupier.

3.3.2. The occupier's obligations under GC IV

The occupier's obligations under GC IV, and by extension international law, are the other exception to the conservationist principle. Specifically, the occupying power may undertake legislative and institutional reforms to eliminate "any adverse distinction [in local laws] based [...] on race, religion or political opinion" in violation of Art. 27.3 GC IV (Dinstein, 2004): 6; Sassòli, 2005: 65). Indeed, Article 27 of the 1969 Vienna Convention on the Law of Treaties (VCLT) states that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty", so that it must be interpreted *a fortiori* as referring both to the internal law of the occupying power and to the law in force in the territory it occupies (Dinstein, 2009: 116-117)[33].

While the occupier's protection obligations are commendable, the question arises as to who are the "protected persons" under the law of belligerent occupation. While the Hague Regulations do not specify whether nationals of the occupier are included among the protected persons, Art. 4 of GCIV explicitly states that: "Persons protected by the Convention are those who [...] find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."

Thus, while the Hague Regulations are three-dimensional, seeking a balance between the interests of the displaced sovereign, the local population and the occupying power, GC IV is two-dimensional, seeking a balance between the interests of the occupying army and those of the local population (Harpaz *et al.*, 2010: 525).

3.4. *The legal paradox of prolonged occupations and the legal debate over the classification of occupations*

The notion of *protacted* belligerent occupation is difficult to reconcile with the traditional definition of military occupation as an inherently brief situation (Bernard, 2012: 5-11). This premise has been contradicted by the protracted occupations of the last century,[34] which seem to suggest that nothing lasts as long as the temporary

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33 *Vienna Convention on the Law of Treaties*, Vienna, 23 May 1969, *UNTS*, vol. 1155, No. 18232, pp: 332-512.

34 *E.g.,* Allied forces occupied Japan and Germany after World War II for 6 and 10 years respectively; South Africa became an occupier of Namibia for at least 23 years when its international mandate ended in 1966 until free elections in 1989; Türkiye occupied Cyprus in 1974 [Res. 33/15 of the UN GA (9 November 1978); Res. 34/30 (20 November 1979); Res. 37/253 (13 May 1983)]; Morocco in Western Sahara since 1975 [Res. 34/37 (21 November 1979); Res. 35/19 (11 November 1980); Res. 43/33 (22 November 1988)]; Vietnam in Cambodia in 1978 [Res. UN GA 37/6 (28 October 1982); Res. UN GA 40/7 (5 November 1985); Res. UN GA 43/19 (3 November 1988)] and Russia in Afghanistan between 1979 and 1989.

(Roberts, 1990: 47). Notwithstanding this, there is no distinction between *short* and *protacted occupations* in current treaty-based or customary IHL (Koutroulis, 2012)[35].

There is debate in law whether *protracted* belligerent occupations should be classified as a separate legal category based on their temporal dimension. According to Dinstein (2009: 116-117), we should distinguish between *protacted* belligerent occupations, which last several decades, and *semi-protracted* ones, which on the contrary last only a few years, since the longer the occupation, the more reforms are required to prevent the needs of the local population from remaining in legal limbo[36].

Similarly, Roberts (1990) defines protracted military occupations as those lasting more than five years, with a sharp decline in hostilities, where the problems that arise require more than mere temporary and conservative solutions to the *status quo*. However, unlike Dinstein, he warns against the risks of an independent classification of such occupations, as it could invite their exclusion from the scope of IHL. Along these lines, Koutroulis (2012:169) questions the definition of separate legal categories, rightly pointing out that IHL applies to all situations of belligerent occupation, regardless of their duration.

In this sense, the creation of an independent and separate legal category for protracted occupations offers no added value compared to the existing IHL regime for occupations. Indeed, the principles of protection and the prohibition of annexation, on which the IHL of occupations is based, serve the ultimate purpose of protecting the occupied population and its legitimate government. If we accept the need to make the conservation principle more flexible in the case of prolonged occupations, thereby allowing the occupier to introduce more reforms, we risk legitimising de facto power of the occupier and ultimately the annexation of the occupied territories, as Dinstein (2009: 116-117) and Roberts (1990) admit. The *de facto* but non-*de jure* nature of the occupier's power in the territory acts as the insurmountable obstacle to extending its legislative power. In the ICJ's *Armed Activities* judgement, although the occupation of the Democratic Republic of Congo (DRC) by Uganda had lasted more than five years, neither the ICJ, nor Uganda, nor the DRC attempted to qualify it as a prolonged or semi-prolonged occupation for the purpose of altering the applicable legal regime[37]. Indeed, to consider that, by the mere passage of time, what was makes a factual situation of occupation, regulated by IHL, becomes subject to a different legal regime, would be tantamount to legitimising the results of the unlawful use of force.

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35   Military rule over occupied territory is not temporally defined, "it is co-extensive in time and space to the effective rule of the military" (Shamgar, 1982).

36   *E.g.*, in Japan's semi-prolonged occupation of Singapore, it was argued that the Japanese had the legal power and duty, according to Art. 43 [of the Hague Regulations], to introduce monetary and banking regulations to govern the territory in an orderly manner, *see* Singapore, Original Civil Jurisdiction, *Public Trustee v. Chartered Bank of India, Australia and China*, 1956.

37   Armed Activities Judgement, *op. cit.* pp. 254-255.

4. The prolonged nature of an occupation: a carte blanche for negating IHL?

As we have seen, there is no doubt that *prolonged* occupations lack an independent legal regime. However, we must now consider whether the time factor precludes the application of certain rules of IHL and, if so, which branch of law should fill these legal gaps.

4.1. *The one-year time limit imposed by Art. 6.3 GC IV*

As is well known, IHL is applicable to belligerent occupations, irrespective of their duration, according to Art. 42 of the Hague Regulations and the above-mentioned ICJ *Armed Activities* Judgement[38]. However, Art. 6.3 GC IV states:

> "In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1-12, 27, 29-34, 47, 49, 51, 52, 53, 59, 61-77 and 143".

In its *Wall Advisory Opinion*, the ICJ confirmed the validity of the one-year period,[39] after which a number of obligations on the occupier, which are crucial for the protected population, cease to apply, such as the obligation to provide food and medical supplies (art. 55), medical and hospital services (art. 56), protection from grave breaches such as intentional homicide, torture or inhuman treatment (arts. 146-147)[40]. This recognition of the validity of the one-year time limit has been criticised by several authors (Imseis, 2005; Ben-Naftali, 2005).

The textual interpretation of Art. 6.3 led the ICJ to conclude that when an occupation does not cease "one year after the general cessation of military operations", only 23 of the 32 provisions applicable to the occupied territories would remain binding. The ICJ thus concluded, paradoxically, that a protracted occupation relieves the occupier of most of its obligations vis-à-vis towards the occupied population. The ICJ thus seemed to identify a gap in the application of IHL caused by the mere lapse of the one-year time limit.

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38 Armed Activities Judgement, *op. cit.,* par. 220.

39 Wall Advisory Opinion, *op. cit.* par. 125.

40 However, they are customarily binding (Imseis, 2005: 106).

While the ICJ created this lacuna in the *lex specialis* of belligerent occupation, it sought to fill it with the *lex generalis*, namely international treaties relating to the protection of human rights. In particular, Art. 50 GC IV, which guarantees children's rights to education, was replaced by Arts. 10, 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), while the occupier's duties to ensure food and medical supplies for the population (art. 55) and medical and hospital services (art. 56) were replaced by less precise obligations under arts. 2 and 12 of the ICESCR (the right to an adequate standard of living and the right to health, respectively) and the similar articles 24 and 27 in the Convention on the Rights of the Child (Ben-Naftali, 2005: 218).

Although the recognition of the applicability of human rights law is in itself a guarantee, its application as *lex generalis* instead of the *lex specialis* of armed conflict represents a step backwards in the protection of the occupied population, not only because the duties of the occupier under IHL are more specific and stringent, but also because the occupied population is expressly recognised as a beneficiary of protection in Art. 47 GC IV. In contrast, international human rights refer to *all* individuals and can thus potentially be used by the occupier to promote the interests of its nationals to the detriment of the rights of the occupied civilian population.

4.2. *The repeal of the one-year deadline*

Art. 6.3 of GC IV was repealed by Art. 3(b) of AP I of 1977 (ratified by 174 states) which eliminates this one-year time limit (Koutroulis, 2012: 173). Moreover, even states that have not ratified AP I are bound by it, as its content has been incorporated into customary international law (Harpaz *et al.*, 2010): 539; Ben-Naftali, 2005: 217; Roberts, 1990: 54). Indeed, the *travaux préparatoires* of AP I show that this provision was adopted by consensus, so that even non-signatory states accepted it without prejudice to their disagreement with other provisions of the treaty (Koutroulis, 2012: 174; Ben-Naftali, 2005: 217). The customary nature of this provision is apparent from the fact that most non-signatory states voted in favour of UN GA resolutions[41] that have stated the application of GC IV in OPT without any such time limit. Moreover, the State of Israel itself has never invoked Art. 6.3 of GC IV as an argument for disregarding its obligations as an occupier under IHL (Roberts, 1990: 55).

It should be noted, however, that the time limit of "one year after the general cessation of military operations" does not refer to the armed conflict that triggered the occupation, as understood by the ICJ, but to any military operation even after the beginning of the occupation (Ben-Naftali, 2005: 214; Imseis, 2005: 106). Indeed, even

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41　*See* UN GA Res. 60/107 (8 December 2005) pp. 1-3; UN GA Res. 61/119 (14 December 2006) pp. 1-3; UN GA Res. 62/109 (17 December 2007) pp. 1-3; UN GA Res. 63/98 (5 December 2008) pp. 2-4; UN GA Res. 64/94 (10 December 2009) pp. 2-4; UN GA Res. 65/105 (10 December 2010) pp. 2-4; UN GA Res. 66/79 (9 December 2011) pp. 2-4.

if we were to consider that the time limit is still applicable, despite its repeal under customary law and treaties, it should not be interpreted as a mere temporal limit but also as a material one, relating to whether or not hostilities exist in the occupied territory (Arai-Takahashi, 2009: 16-19; Koutroulis, 2012; Ben-Naftali, 2005).

To understand this issue, we must recall that, under Art. 31 of the VCLT, the provisions of a treaty are to be interpreted "in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose". Since the ICJ's textual interpretation led to a conclusion that was inconsistent with the humanitarian "object and purpose" of the treaty, we must examine "the preparatory work of the treaty" and "the circumstances of its conclusion"[42] in order to properly interpret the provision.

It is clear from the *travaux préparatoires* that this one-year limit on the occupier's obligations was adopted on the assumption that after this period the occupier would cede its powers to the local institutions of the occupied territory, thus implying the end of the occupation (Koutroulis, 2012: 175). On this premise, which in our view is dubious, it did not seem reasonable to the Geneva Diplomatic Conference of 1949 to subject the occupier to the obligations deriving from that status if he had transferred power over a year ago (Koutroulis, 2012: 175; Roberts, 1990: 56). The problem arises, then, when we are faced with occupations, such as that of Palestine, in which, after this year-long period, there has been no such return of power, but rather the opposite[43].

It could be concluded that what determines the cessation of the occupier's obligations in a prolonged occupation is not the time threshold per se but the substantive criterion of the actual transfer of power (Bothe, *et al.* 1982: 59). There are two possible long-term scenarios in such occupations. On the one hand, if the occupied power defeats the occupier, hostilities will cease and with them the occupier's obligations. On the other hand, if the occupying power is victorious, its occupation can be prolonged (but without hostilities), which prevents the state from invoking Article 6.3 of GC IV to weaken the rights of the occupied population (Pictet, 1958).

Thus, we can affirm that, although the aforementioned Art. 6.3 GC IV was not designed to diminish the rights of the local civilian population (Arai-Takahashi, 2009: 92-107), but to restrict the occupier's exorbitant powers, it led to the opposite effect of allowing the occupier to evade its obligations, by the mere passage of time. This rule is therefore a "legal anomaly" because, in identifying the problem of the applicability of IHL in protracted occupations, it proposes a counterproductive solution (Roberts, 1990: 57).

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42   *See* Art. 32: "when the interpretation according to article 31 (a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable" "recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion".

43   This time limit was intended for specific historical cases, such as the occupation of Germany and Japan after World War II. By the 1970s, it had become meaningless, given the proliferation of prolonged occupations without the return of power to the sovereign state.

5. The prolonged nature of an occupation: a catalyst or inhibitor of an occupier's powers?

From what we have observed, the prolonged nature of an occupation does not preclude the application of the rules of IHL. However, it can certainly influence its implementation (Koutroulis, 2012: 169), as the law of belligerent occupations allows for a wide margin of variation (Roberts, 1990: 51; Sassòli, 2005: 668) in the administration of the territory[44]. To this end, the question arises as to whether the temporal factor of an occupation extends the occupier's legislative powers or whether, on the contrary, it restricts them.

5.1. Time as a catalyst for the occupier's legislative power and the notion of military necessity

Some legal jurists see the prolongation of military control as an amplifying factor of the occupying power's normative powers, so that the conservationist principle on respecting the *status quo ex ante* would be inversely proportional to the temporary duration of the occupation (Cassese, 1992; Dinstein, 2009: 116-117; Fox, 2012: 240). Already in the 19th century, military manuals suggested a broad interpretation of the legislative competence ot the occupiers[45]. In similar terms, at the beginning of the First World War, Leurquin noted (1916: 54-55) that "if the occupation is extended, where, after the war, the economic and social situation of the occupied country changes, new legislative measures will obviously have to be adopted sooner or later ".

In this sense, Sassòli (2005: 679) suggests an extensive interpretation of the notion of military necessity in order to exclude the conservationist principle in prolonged occupations, fill an alleged legislative gap of the overthrown sovereign and not interrupt the development of the territory. Similarly, Schwenk (1945) stresses that such an interpretation of the legislative power of the occupier facilitates the re-establishment of public order and civilian life in the territory under occupation.

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44   On how authority is exercised, *see* District Court of The Hague, Holland, *K.N.A.C. v. State of the Netherlands* (8 June 1949), *Annual Digest and Reports of Public International Law Cases,* vol. XVI, pp. 468-469, where it was stated: "though the regime envisaged by the Hague Regulations for occupied territory comprised a military administration with civil departments subordinate to it, the setting up by the occupant of a separate civil administration to control the existing civil administration left functioning, was not forbidden and must, on the contrary, be held to be a permissible complement of the maintenance of the latter administration in office"; Supreme Court of Israel, Ansar Prison, case no. HCJ 593/82, Judgement, 13 July 1983, where it was noted: "the application of the third chapter of the Hague Rules or of the parallel instructions in the Fourth [Geneva] Convention are not conditioned upon the establishment of a special organisational framework in the form of a Military Government".

45   For example, a French manual recommended the establishment of new courts in situations of prolonged occupation where local courts had ceased to function, *see* France, Ministry of War. (1884). *Manuel de droit international a l'usage des officers de l'armée de terre* [International law handbook for army officers]. Paris, L. Baudoin .

5.2. *Time as a factor inhibiting the occupier's legislative power and the notion of military necessity*

The opposing legal argument puts forward that the temporary extension of an occupation does not alter the concept of military necessity and, at most, restricts rather than expands it. Indeed, the extension of the occupier's legislative power in protracted occupations can lead to illegal annexations (Koutroulis, 2012: 182) or even lay the foundations for institutional discrimination constituting the crime of apartheid (Roberts, 1990: 52).

It should be noted that a permanent system of control and discrimination against Palestinians has been established by Israel through a biased interpretation of the law of belligerent occupation, as we shall see in more detail in section 5 of this article[46]. In particular, the expansion of the military authorities' discretionary power and the rejection of the customary conservationist principle have eroded Palestinians' protection under Article 4 of GC IV (Harpaz *et al.,* 2010). It is worth noting that the occupied population is better protected by IHL than by the discretionary decisions taken by the military commander, which is a delegation of authority from the legislature to the executive (Schlag, 1985): 386-87), which may include strategic considerations unrelated to the requirement maintaining public order and civilian life for the benefit of the local population.

Moreover, even if we were to ignore the risks of expanding military discretion in protracted occupations, from a factual perspective, the temporal factor restricts rather than increases the degree of military necessity, and even increases the occupier's duties of protection (Roberts, 1990). In fact, the longer the occupation lasts, the more consolidated the the power of the occupier becomes, and thus the more difficult it will be for him to invoke reasons of military necessity to adopt extraordinary measures or to argue that insurmountable obstacles prevent him from guaranteeing the welfare of the occupied population (Jones, 1923: 159).

Indeed, as we saw in the previous section,[47] the decisive factor in reducing the legislative powers of the occupying power does not lie in the duration of the occupation, but in the partial or total cessation of hostilities, since this implies the reduction of military needs[48]. As underlined by Switzerland, in the ICJ's *Wall Advisory Opinion*: "Any examination of necessity and proportionality in circumstances of prolonged occupation when hostilities have ceased must be more rigorous, since stricter conditions govern the imposition of restrictions in such circumstances on the fundamental rights of protected persons"[49].

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46   *See infra* par. 5.

47   *See,* section 3.

48   *E.g.,* it will be more difficult to justify the destruction of property under the military necessity exception of Art. 53 GC IV, once military operations are concluded (Koutroulis, 2012: 192; Roberts, 1990).

49   *Wall Advisory Proceedings* (2004), *Written Statement.* 30 January 2004, p. 6.

In this sense, protracted occupations resemble *peaceful* occupations, in which the powers of the occupier are much more limited than in a belligerent occupation (Roberts, 1990: 52), as the occupier's prerogatives to protect his troops from the enemy's domestic population lose their rationale.

6. Palestine as a case study

As noted in the introduction to this article, the Israeli occupation of Palestine is a model case of prolonged occupation, characterised by profound legal and institutional reforms in violation of the conservationist and minimalism principles (Dinstein, 2004: 8)[50]. This case study is particularly interest because unlike other occupations[51], it is the only one so far in which the occupant has acknowledged its status. It is therefore appropriate to examine, on the one hand, the change in the Israeli Supreme Court's case law in order to legitimise the occupation over time and, on the other hand, the response of the primary international courts and bodies of the UN system.

6.1. The Israeli Supreme Court's interpretation of the law of military occupations

The regime of oppression and discrimination against Palestinians is supported by the jurisprudence of the Israeli Supreme Court, which Harpaz describes as "legal acrobatics" (2010: 515), that simultaneously regulate and legitimise occupation (Ferraro, 2008: 338). The Israel executive gradually instrumentalised the court, and two jurisprudential phases can be distinguished: (i) a first phase of *moderate transformative occupation and (ii) a second phase of benevolent occupation.*

The first phase of *moderate transformative occupation* involved a discreet respect for the conservationist principle. Thus, for example, in the *Elon Moreh* judgement*,* concerning the expropriation of Palestinians to create Jewish settlements, the court opposed the implementation of reforms by the military government that were to last: "after the termination of the military rule in that area, when the fate of the territory after termination of the military rule is unknown"[52].

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50   This also occurred with a prior British occupation during the First World War: although the UK kept the Ottoman laws in force, it implemented profound reforms under the pretext of safeguarding the interests of the occupied people (Dinstein, 2004: 8).

51   "China's occupation and annexation of Tibet, the Indonesian invasion and annexation of East Timor, the Moroccan annexation of Western Sahara in the mid-1970s, South Africa's occupation of Namibia [...], the Vietnamese occupation of Cambodia in 1978, the Soviet intervention in Afghanistan in 1979, the US interventions in Grenada in 1983 and Panama in 1989, the Iraqi invasion and annexation of Kuwait in 1990, and Turkey's occupation of Northern Cyprus" (Arai-Takahashi, 2009: 4).

52   *See* Supreme Court of Israel, *Dweikat et al. v. Government of Israel et al.* Case no. HCJ 390/79, Judgement, 1979 (*Elon Moreh* judgement).

In contrast, the second jurisprudential phase of *benevolent occupation* constituted a pure legitimisation of the occupier (Kretzmer, 2012: 227). In particular, the court adjusted the application of IHL to extend the occupier's powers given the protracted nature of the occupation (Kretzmer, 2012: 227). In the *Quarries* judgement,[53] *for example, the court found that Israeli quarrying activities in the OPT did not violate Article 55 of the Hague Regulations, which limits the use of public property in the occupied territory to mere usufruct.* The Court authorised the quarrying complained of, noting that "traditional occupation laws require adjustment to the prolonged duration of the occupation, to the continuity of normal life in the area", despite the fact that the article in question did not provide for any possible legislative competence of the occupier in this matter[54].

It should also be underlined that, in its initial *moderate occupation* jurisprudence, the court recognised that the notion of military necessity refers exclusively to that of troops in the occupied territory. Thus, in the *Beth El* judgement, the Court ruled that private Palestinian land could be expropriated to build an Israeli civilian settlement in a strategic location only if it contributed to the military defence of that occupied territory[55].

In contrast, in its later *benevolent occupation* jurisprudence, the Court expanded this notion of military necessity to include the security of the State of Israel itself. In particular, in the *Mar'abe* judgement, the court departed from its initial position that military necessity was limited to that of military forces located in the OPT and ruled that the military authorities could adopt security decrees to protect the State of Israel, within the 1967 borders, from terrorist attacks launched from outside[56].

Finally, it should be noted that, in the first jurisprudential phase, the court restricted the *ratione personae* application of GC IV guarantees to the occupied population. For example for illustrative purposes, in the *Value Added Tax* ruling, the Court recognised that the status of protected population was exclusive to the Palestinians, so that in order to validate the introduction of a new tax in OPT, it used the pretext of benefiting the Palestinians[57].

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53 *Cfr.* Supreme Court of Israel, "*Yesh Din" - Volunteers for Human Rights v. The Commander of IDF Forces in the West Bank and others*, case no. HCJ 2164/09, Judgement, 26 December 2011 (*Quarries* judgement).

54 Article 55: "The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties and administer them in accordance with the rules of usufruct".

55 *See* Supreme Court of Israel, *Ayyub v. Minister of Defence,* case no. HCJ 606/78, Judgement, 1988 (*Beth El* judgement) which stated "as regards the pure security aspect, it cannot be doubted that the presence in occupied territory of settlements –even 'civilian' settlements– of citizens of the occupying power contributes appreciably to security in that territory and makes it easier for the army to carry out its task".

56 *See* Supreme Court of Israel, *Zaharan Yunis Myhammad Mara'abe et al. v. The Prime Minister of Israel et al.* Case No. HCJ 7957/04, Judgement, 15 September 2005, (*Mar'abe* judgement).

57 *See* Supreme Court of Israel, *Abu Itta et al. v. IDF Commander in Judea and Samaria et al.* Case no. HCJ 69/81, Judgement, 1983 (*VAT* judgement).

On the other hand, in the second *benevolent occupation* phase, the Court included not only the occupied population but also the residents of the illegal Jewish settlements in the OPT, and even the residents of the State of Israel itself within the scope of the application of occupation law. In particular, the court noted in the *Bethlehem* judgement that the military commander had the power, under the Hague Regulations and GC IV, to issue orders offering protection to Jewish worshippers, on the basis that "Jewish worshippers have a basic right of freedom of worship at Rachel's Tomb" and the military authorities should ensure "the exercise of freedom of worship while ensuring the safety of the worshippers"[58]. Similarly, in the *Abu Safiya* judgement , the Court ruled that the military authorities must ensure the safety of all travellers on a particular route, including Israeli travellers who live in the State of Israel but decide to take that route for whatever reasons (Harpaz *et al*, 2010: 535).

In our view, this blatant extension of the *ratione personae* application of the law of belligerent occupation distorted its raison d'être (Gross, 2007: 1-35), i.e. to protect those who fall into the hands of "a Party to the conflict or Occupying Power of which they are not nationals". (Art. 4 GC IV) and put different categories of civilians in competition to have their interests protected and safeguarded by the occupier.

It follows from the above that the interpretation of the law of military occupations by the Israeli Supreme Court has allowed for the expansion of the occupier's discretionary and legislative powers, thus legitimising the gradual establishment of a regime of systematic and discriminatory control of the Palestinian population, under the legal cover of interpreting IHL, in our view, in a biased manner. This instrumentalisation of the judiciary to legitimise the current occupation is likely to grow in the future, as the proposed reform of the judiciary on 6 January 2023 could further limit the independence of the judiciary in Israel. Indeed, if approved, the reform would weaken the separation of powers, change the system for electing judges and allow the Parliament to re-adopt rules previously overturned by the Supreme Court[59].

6.2. The interpretation of the law of occupation by international courts and UN bodies

The UN has been watching the Palestinian issue for more than half a century, when the 1947 Partition Plan divided the British mandate into an Arab and a Jewish state, leading to the creation of Israel in 1948. The Israeli-Palestinian conflict has thus been the subject of numerous resolutions by UN bodies.

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58 *See* Supreme Court of Israel, (2005). *Bethlehem Municipality v. The Minister of Defense*, case no. HCJ 1890/03, Judgement.

59 Pita, A. (2023). The keys to explaining the protests and the serious institutional crisis in Israel. *El País*, 27 March. [Accessed: April 2023]. Available at: https://elpais.com/internacional/2023-03-27/las-claves-que-explican-las-protestas-y-la-grave-crisis-institucional-en-israel.html

The Security Council enshrined the principle of "land for peace" in its resolutions 242 of 22 November 1967 and 338 of 22 October 1973, reaffirmed the notion of coexistence between the two states in its resolution 1397 of 12 March 2002 and banned Israeli settlements in the OPT in its famous resolution 2334 of 23 December 2016.

Since 1997, the General Assembly has held its tenth Emergency Special Session (Vacas Fernández, 2015: 11). It also established the Committee on the Exercise of the Inalienable Rights of the Palestinian People under resolution 3376 of 10 November 1975. On 30 December 2022, the UN General Assembly adopted resolution 77/247 requesting the ICJ to give an advisory opinion on the following question:

> "What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?"

Since 2006, the Human Rights Council has taken over from the Commission on Human Rights within ECOSOC (Vacas Fernández, 2015: 11). Most recently, on 27 May 2021, the Human Rights Council adopted resolution S-30/1, by which it

> "Decides to urgently establish an ongoing independent, international commission of inquiry [...] to investigate in the Occupied Palestinian Territory, including East Jerusalem, and in Israel all alleged violations of international humanitarian law and all alleged violations and abuses of international human rights law leading up to and since 13 April 2021."

To date, the new international commission of inquiry has issued two reports. In its report of 14 September 2022 , the Commission of Inquiry concluded that the *protracted* nature of the Israeli occupation is "contrary to international law because of its *permanent* nature" concealed by a *"fiction of temporariness"* that implies irreversible transformations in the occupied territory, as well as territorial annexations by force. In the report of 7 June 2022, the Commission reiterated the existence of evidence pointing to the permanent nature of the Israeli occupation of Palestine, as well as to the State's intention to permanently annex the occupied territory.

The ICJ is currently studying the advisory opinion submitted to it by the General Assembly on 30 December 2022. In its latest advisory opinion, the *Wall Advisory Opinion*, already mentioned throughout this article, the ICJ concluded that Israel's construction of a wall and Israeli settlement measures in the OPT contravened IHL and the safeguarding of human rights. Furthermore, the ICJ has already warned that the prolonged occupation in the OPT risks becoming permanent and thus a *de facto* annexation, contrary to the principle of respect for the national sovereignty and self-determination of the Palestinian people.

With regard to the question of whether the temporal factor of the occupation excluded the application of certain IHL norms (as we have pointed out in section 3 of this article), the ICJ ratified the validity of the one-year period, set out in Article 6.3 GC IV, after which a set of obligations of the occupier, fundamental for the protection of the occupied population, would cease to apply. Specifically, the ICJ considered that "one year after the general cessation of military operations" (Art. 6.3 GC IV), nine guarantees to the benefit the occupied population ceased to apply and that this legal gap had to be filled by human rights protection instruments. This article has argued that giving primacy to the *lex generalis* of human rights treaties over the *lex specialis* of armed conflict is counter-productive in terms of the object and purpose of the treaty. Indeed, the occupier's obligations under IHL are more specific and stringent, and the population under occupation is expressly recognised as a beneficiary of protection in Art. 47 GC IV. On the contrary, human rights protection instruments cover all persons, so that they can be used by the occupier to promote the interests of its national citizens *vis-à-vis* the occupied population.

Finally, we must stree that the Palestinian issue is also the subject of an international criminal investigation. The ICC opened a Preliminary Examination on the situation in Palestine on 16 January 2015. Following the positive outcome of that review, in February 2021, the ICC declared itself competent to prosecute the international crimes perpetrated in the OPT[60] and the following month the Office of the Prosecutor opened a formal investigation[61]. In addition, several human rights NGOs have denounced Israel's systematic oppression and discrimination against Palestinians as constituting apartheid and persecution under both the Apartheid Convention and the Rome Statute[62].

7. *Conclusion*

From what has been considered above, we can conclude that the creation of an autonomous legal regime for prolonged occupations, from a legal rationale, does not present a comparative advantage to the already existing IHL for occupations. Indeed, the conservationist principle and the prohibition on annexation, which are the pillars

60   ICC, *Decision on the 'Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine'*, Case no. ICC-01/18 (Pre-Trial Chamber I), 5 February 2021. Available at: https://www.icc-cpi.int/CourtRecords/CR2021_01165.PDF.

61   Bensouda, F. (2021). Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine. ICC. 3 March. [Accessed: April 2023]. Available at: https://www.icc-cpi.int/Pages/item.aspx?name=210303-prosecutor-statement-investigation-palestine.

62   Amnesty International (2022). Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity. 1st ed. London: Peter Benenson House. [Accessed: April 2023]. Available at: https://www.amnesty.org/en/wp-content/uploads/2022/02/MDE1551412022ENGLISH.pdf; Human Rights Watch, (2021). A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution. New York: Human Rights Watch. [Accessed: April 2023]. Available at: https://www.hrw.org/sites/default/files/media_2021/04/israel_palestine0421_web_0.pdf

on which the IHL of occupations rests, are intended to protect the occupied population and its legitimate institutions. If we were to agree to grant broader legislative powers and greater discretion to the occupier in the case of prolonged occupations, dismissing the above principles, this would open the door to the legitimisation of his de facto power and, eventually, the annexation of the occupied territories.

As noted in this text, there are two exceptional situations in which the occupier is authorised to legislate by altering the existing legal and institutional order: when it is indispensable for reasons of military necessity or to fulfil its obligations as a state party to GC IV. Some long-term occupying powers, such as Israel, have so broadly interpreted such exceptional situations as to make the exception the rule. Hence, we have considered in this article whether time can negate the application of IHL or, if not, whether it ends up modifying to some degree the scope of the occupying power's legislative power in the territories under its control.

It follows from our analysis that the time limit for the expiry of certain IHL rules in belligerent occupations —set by Art. 6.3 GC IV at one year— has been abrogated by Art. 3(b) AP I 1977, as well as by international custom. However, even assuming that the aforementioned Art. 6.3 of GC IV continues to apply —as the ICJ does in its *Wall Advisory Opinion*— our analysis suggests that it should not be interpreted as a merely temporal limit but of a substantive nature, according to which IHL ceases to apply to belligerent occupations when it loses its raison d'être, that is, when governmental functions are restored to the legitimate institutions of the occupied state.

In this sense, it does not seem necessary to close any loopholes in the IHL of belligerent occupations, but rather to interpret it in accordance with the protective and humanitarian purpose of GC IV. In this article, we have argued that the application of the *lex generalis* of human rights protection instruments, rather than the *lex specialis* of armed conflict, in situations of prolonged occupation undermines the protections of the occupied population. This is because the occupier's obligations under IHL are more concrete and stringent, and also because the occupied population is explicitly recognised as the beneficiary of the occupier's protection in Art. 47 GC IV, which avoids placing their interests in competition with those of the nationals of the occupying state.

While the protracted nature of the occupation does not preclude the application of IHL, our study suggests that it may influence its application. Some legal experts conceive of the temporal factor as a catalyst for the legislative power of the occupying power, due to an expansive interpretation of the notion of military necessity when the occupation extends over a long enough period. Instead, our analysis suggests that the prolongation of an occupation does not change the concept of military necessity, and at most limits rather than amplifies it. Indeed, the longer the occupation lasts, the stronger the occupier's presence in the territory will be, and therefore the more difficult it will be to justify extraordinary measures on the grounds of alleged military exigencies or to argue that insurmountable obstacles prevent it from safeguarding the interests of the occupied people.

Therefore, while the law of belligerent occupation may authorise the occupier to stray from the conservationist principle on extraordinary occasions and thus to grant differential legal treatment for nationals of the occupying state and those of the occupied territory, this does not mean that it may do so in order to establish a system of discrimination and oppression in the long term, as has occurred in the OPT. In other words, the problem is not the adequacy of IHL to govern protracted occupations, but its exploitation as a cover for *de facto* annexation. The issue is not the existence of legal gaps in IHL, which ought to be filled by other legal systems, but the need to interpret it in accordance with its purpose of protecting the occupied population from the occupier.

From our study of the jurisprudence of the Israeli Supreme Court, it is clear from a domestic law perspective of the occupier, this body has legitimised the gradual construction of a discriminatory and oppressive regime against the Palestinian population. Furthermore, from an international law perspective, our study of resolutions and decisions of the main UN bodies, as well as the jurisprudence of the ICJ and the ICC, suggests that there is a broad consensus in the international community on the illegality of the prolonged occupation in the OPT.

In the years to come it will be seen whether the ICC prosecutor's investigation will finally respond to the growing demands of civil society and the international community to end the impunity of the Israeli state. Only the future will tell whether the Palestinian people will achieve the protection of their right to self-determination, and liberation from the Israeli oppression to which they have been subjected for more than half a century.

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The exportation of terrorism through Emni: a review of the attacks from Syria to Libya between 2014 and 2017 instrumented under the label of the Islamic State's external operations service

Abstract

This study seeks to explain the creation of the Islamic State's (IS) External Operations Service by linking the Franco-Belgian unit of Amn al Kharji (Emni) with the Libyan-Tunisian contingent of the Katibat al Battar al Libiyya (KBL) militia. This starting premise is supported by the theory that Emni and KBL have merged into a single entity, thus explaining why the first attacks carried out under the label of IS's External Operations Service were orchestrated from Syria, while the second wave of attacks instigated from Libya coincided with the loss of territory in Syria and the return of many KBL fighters to Libya. In order to better communicate the results of the research, we will briefly outline the origins behind the creation of an intelligence service within the Islamic State, and then analyse, from a relational perspective, the existing links formed between the members who conformed the external operations unit of IS and those who integrated the commandos of the attacks that struck Europe and Tunisia between 2014 and 2017.

Cite this article:

1. Introduction

1.1. *The embryo of the Islamic State's security architecture*

All indications point to the creation of a secret service unit within the Islamic State (IS) or Daesh (the Arabic acronym for the Islamic State in Syria and the Levant) derived from plans drawn up by former members of Saddam Hussein's army linked to the Islamic State in Iraq (ISI), and later to IS (Tønnessen, 2015: 53). For example, the purpose of gradually subjugating Syria and turning it into a bastion from which to make better invade into nearby Iraq was outlined in some thirty handwritten pages found in the possession of Samir Abd Muhammad al-Khlifawi, the former colonel of information of the Iraqi air force's secret services, who died at the hands of the Syrian resistance in January 2014 (Roggio, 2014).

A former companion of Abu Bakr al-Baghdadi in Camp Bucca (The Soufan Center, 2014), al-Khlifawi, better known by his alias Haji Bakr, moved in 2012 to the town of Tal Rifaat, which had become the IS fiefdom for the Aleppo region[1]. It was there that he put into action the plan outlined in the papers seized after his death, which already outlined a complex structure for the foundations on which the future proto-state system of the Islamic State in Syria and Iraq would be built (Reuter, 2015).

Apart from detailed organisation charts, Haji Bakr's documents contained a detailed design of tactics —some pre-tested, some specially created for the occasion— to gain control of rebel-held areas of Syria. To this end and according to the drafts found, they sought to install the enemy from within by infiltrating their followers into the social structures through marriage with local women, among many other techniques. According to the confessions of Islamic State defectors collected by Speckhard and Yayla (2016: 92; 2017: 7), the infiltration strategy in Syria was developed village by village through the creation of *da'wa* offices (translated from Arabic as invitation or call, which in this particular case can be interpreted as offices for proselytising), designed to attract new followers through the spread of the Islamic faith. Informants were then identified from among the new followers and trained. These were people who were willing to spy on their families and communities, who were prepared to find compromising material with which to blackmail neighbours and others, especially if they contravened the precepts of *Sharia* (Islamic law)[2].

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[1] Many of Tal Rifaat's residents had emigrated in the 1980s to the Arabian Peninsula in search of work and fleeing persecution from the Assad regime. They returned years later, imbued with the radical ideas that had taken hold in the Gulf countries at the time, thus contributing to fertile soil in which IS ideas could later take root (Al Homsy, 2017).

[2] The seizure, also in Aleppo, of more IS documents confirms that this *modus operandi* was not only used to investigate the civilian population, but also to infiltrate the opposition, both rebel groups and Assad's militias, in order to gather information that would allow them to know the political orientations of the leaders and in turn detect other infiltrators among the rival ranks (Speckhard and Yayla, 2016: 80).

Beyond that, Haji Bakr's sketches also elucidate the real power architecture within IS, which is crucial to understanding the rapid expansion of the organisation, which by the time the world became aware of its existence through al-Baghdadi's sermon from the pulpit of the Mosul mosque in July 2014, already had control over significant swathes of territory: Aleppo, Raqqa and Deir Ezzour in Syria and the provinces of Salahuddin, Anbar, Nineveh and Diyala in Iraq (Alami, 2014).

The intention to establish a caliphate in the form of a State was accompanied by the creation of secret services within IS in lockstep with Haji Bakr's plans. Under the leadership of Taha Sobhi Falaha, alias Abu Muhammad al-Adnani, IS spokesman and al-Baghdadi's right-hand man, that the Amn al-Kharji unit, also known simply as Emni, was created. The Arabic name Amn al-Kharji refers to external security, but in practice Emni combined internal policing functions with the implementation of what would later become IS's external operations service.

Emni began operating forty kilometres northeast of Aleppo from the town of Al Bab, where Abu Muhammad al-Adnani was based, and where he would later be killed by a US airstrike in August 2016 (John, 2016). He was followed in the post by Ali Moussa al-Shawakh, alias Abu Luqman, who belonged to al-Adnani's closest circle, and had held until then the position of governor in Raqqa (Sutherland, 2017). Based on research by Almohammad and Speckhard (2017), by the time of al-Adnani's death, it is estimated that Emni already had two parallel structures in Syria and Iraq. Coinciding with the fall of Al Bab in late February 2017 to Free Syrian Army rebel forces, Abu Luqman was spotted in the city of Sirte in Libya barely a month later, raising suspicions that Emni had expanded into North Africa, a theory that this article supports and which will be developed in the following sections.

1.2. *The creation of IS's external operations apparatus: from Syria to the world*

It was in the early years of Emni's existence, still under the leadership of Taha Sobhi Falaha, that the foundations were laid for the foreign operations service behind the deadly attacks that devastated Europe between 2014 and 2017. In the face of a highly hierarchical organisation such as the Islamic State, Emni soon became a budgeted and resourced unit with greater prominence in the IS security architecture than the *Hisbah* (morality police) or other units such as the military police and assault squads (Almohammad *et al.*, 2017).

At the internal security level, its powers were on a par with those of the secret services of the opaquest regimes. Emni applied sophisticated methods of interrogation and torture to members of the organisation who were suspected of passing on information or of playing on both sides. It was also responsible for thoroughly vetting foreign recruits who joined the group without references or without having gone through a prior validation process, in order to send them to the front if there were still doubts about the veracity of their statements (Speckhard and Shajkovci, 2018). In an effort to

document and obtain as much information as possible about foreign fighters joining the group, Emni collected large files of personal data to create a complete profile of the newcomers (Callimachi, 2018; Speckhard and Yayla, 2017: 7).

Thanks to this privileged information, when IS considered the need to further develop the creation of a specific service for external operations, Emni already had an important database from which to recruit agents who would be selected to operate beyond the borders of the Caliphate. For this purpose, Emni selected the most skilled and committed fighters and committed and mostly grouped them by nationality or language (Callimachi, 2016), and trained them as elite units in remote areas of Syria.

In mid-2014, coinciding with the time when Western countries began to monitor the departure of their nationals more closely and surveillance intensified on those suspected of having returned from a theatre of conflict, many of the foreign fighters were instructed to buy a package holiday to Türkiye with a fixed return date. The aim was to bypass Turkish border controls and cross briefly into Syria for express explosives training before returning to their home countries on the scheduled flight so as not to arouse suspicion, where they would continue to be monitored by Emni members, ready for action (Callimachi, 2016).

1.3 Majlis Shura al-Mujahideen and Katibat al-Muhajireen: hotbeds for Emni and KBL recruitment

Many Belgians who came from the Sharia4Belgium organisation were among the first Europeans who made their way to the Middle East shortly after the Syrian civil war broke out. Among them was Houssein Elouassaki, who upon arrival in Syria joined Majlis Shura al-Mujahideen (MSM), a brigade led by the al-Absi brothers (originally Firas, and upon his death, his younger brother Amr, better known as Abu Atheer). Based in Kafr Hamra, a village administratively part of the Aleppo Governorate and in the northwest of the city, MSM had all its fighters staying in two large villas requisitioned from government-linked families (Taub, 2015). Elouassaki's intense activity on social media soon allowed him to attract a large number of comrades from his own organisation in Belgium, as well as other fighters with whom he had contact through Facebook. In recognition of his work, he was appointed *emir* (leader) of the Katibat al-Muhajireen (KAM), a brigade of foreigners, made up of fighters from Belgium, France and the Netherlands but still under the aegis of the MSM (Van Vlierden, 2016: 55).

In this sense, the Sharia4Belgium members were soon followed by members of the Zerkani Network, an organisation formed in Belgium around the figure of Khalid Zerkani, a veteran of the jihadi cause who in the past had trained in Afghanistan-Pakistan, where he met Seifallah ben Hassine, alias Abu Iyad, co-founder of the Tunisian Combatant Group (TCG) and promoter of the Ansar al-Sharia organisation in Tunisia (Monnier, 2016). As will be seen in the following

sections, the figure of Abu Iyad is one of the key actors linking the Franco-Belgian contingent to the Libyan-Tunisian contingent, and who had also influenced Emni's relocation to Libya.

Some 77 Belgian fighters are known to have become part of the Katibat al-Muhajireen within the Majlis Shura al-Mujahideen (Van Ostaeyen and Van Vlierden, 2017: 6). Among the members of Zerkani's network who passed through KAM, probably the best known names are Abdelhamid Abaaoud, nicknamed Abu Omar al-Belgiki, who was the European commander of the cell that carried out the Paris attacks in November 2015, and Najim Laachraoui, also known as Abu Idriss, a member of the cell that carried out an attack in Brussels in March 2016.

Amr al-Absi was present at the founding of the Islamic State of Iraq and the Levant (ISIL) in mid-April 2013 in Kafr Hamra, along with Abed al-Libi, *emir* of the Katibat al-Battar al-Libiyya (KBL), Haji Bakr, the architect of Emni, and representatives of other organisations operating in the territory. After several days of negotiation, the militias present there decided to pledge allegiance to Abu Bakr al-Baghdadi as long as the founding of the new ISIL was carried out in coordination with Jabhat al-Nusra and Ahrar al-Sham (Doornbos and Moussa, 2016). As is well known, al-Zawahiri did not approve the merger with ISI, so Jabhat al-Nusra remained al-Qaeda's franchise in Syria, distancing itself from the al-Baghdadi-led organisation. Similarly, not all MSM members swore allegiance to al-Baghdadi, with approximately about a third of the Belgians in the foreigners' brigade led by Elouassaki jumping to Jabhat al-Nusra (Taub, 2015).

On the other hand, those who stayed in MSM made good friends with the KBL, an elite unit founded in 2012 in the Idlib governorate —sixty kilometres from Aleppo— mostly made up of Libyans, but also a good number of Tunisians involved in the Afghan jihad and in the fight against the US invasion of Iraq (Al-Tamimi, 2014). In this way, it is not surprising that the KBL's time in Syria ended up recruiting French-speaking MSM fighters, especially Belgians and French (Colquhoun, 2016). Abaaoud is believed to have made contact with the KBL in the summer of 2013, by which time the militia had around 750 Libyan fighters among its ranks (Weiss, 2015). Confirmation of this suspicion only came in the autumn of 2014 when the KBL published on social media a list of alleged KBL fighters killed in combat. Several Belgian names appear among them, including the nickname of Abdelhamid Abaaoud, Abu Omar al-Belgiki, in a clear manoeuvre to circumvent the Belgian authorities' tracking orders and thus facilitate Abaaoud's entry into Europe barely a year later (Van Vlierden, 2015: 31).

The first media outlet to publish an investigative article on Emni's *modus operandi* in relation to its terrorist threat to Europe was *The New York Times*. The article was written by Rukmini Callimachi (2016) who revealed that many of the attackers involved in attacks claimed by IS in Europe between 2014 and 2016 had previously trained in Syria, where they were specifically instructed in the execution of operations abroad. Thus, Mehdi Nemmouche, who attacked the Jewish Museum in Brussels in 2014, is known to have been in contact with Emni operatives, just as Sid Ahmed Ghlam,

whose planned attack in Villejuif in April 2015 was foiled, and Ayoub El-Khazzani, who attacked the Thalys train in August 2015, were linked to Abdelhamid Abaaoud and the cell behind the November 2015 attacks in France and the March 2016 attacks in Belgium.

The presumption that the KBL and Emni at some point merged forces and/or became a single entity stemmed from the fact that not only did both units claim to have trained Abaaoud and other members of the cells behind the Paris and Brussels attacks, but the two were also linked to the attack on the Jewish Museum in Brussels and the failed Thalys train bombing, all of which were orchestrated from Syria (Sutherland, 2017).

During the years of IS's meteoric rise, Syria was influenced by many Libyan and Tunisian fighters. According to the data available, some 3,000 Tunisians are said to have entered Syria from the beginning of the civil war until the spring of 2017 (Barrett, 2017: 25), while 3,600 Libyans entered through the Turkish border during 2013 and 2014 (Pack *et al.*, 2017: 15). With combat experience from the Syrian civil war, a good number of them returned to a Libya in the midst of chaos and misrule. This allowed them to lay the foundations of IS's first Libyan *wilaya* (province) in Derna, the hometown of many of the Libyans who had created the KBL in Syria. The returnees also included a significant number of Tunisians, who helped establish the Sabratha camp in the Tripoli area, conveniently located near the Tunisian border. It was precisely from Sabratha and under KBL command that the attacks on the Bardo Museum in March 2015 and the Riu Imperial Marhaba tourist resort north of Sousse in June 2015 were instigated.

Callimachi (2016) revealed that the Sousse beach attacker, Seifeddine Rezgui, had been in contact with Emni, an indication that supports the hypothesis that Emni and the KBL found common cause, and that as the Caliphate lost territory in Syria, Libya became the new centre of gravity from which to orchestrate attacks abroad. This relocation of the foreign operations apparatus to Libya under the command of the KBL would fit with the overt connection of the December 2016 Berlin attack and the May 2017 Manchester attack to KBL operatives (Sutherland, 2017).

Halfway between historical and sociological analysis, this study has been conceived from a relational perspective that unpacks organisations and their members as an aggregate of trajectories (Tilly, 2005: 19-22) which in turn weave a shared history. Thus, following Callimachi's lead, the following sections delve into the personal links between the members of the cells behind the attacks in Europe and the Maghreb between 2014 and 2017 in order to trace a common thread to IS's external operations apparatus. The result is the observation of groups that at first glance may appear to be more or less fragmented cells —the result of a natural trend within global jihadism that has evolved over the last three decades from centralised hierarchies to interconnected groups (Borum *et al.*, 2012: 393-395)— but which nevertheless, as this article shows, remain intrinsically linked to transnational jihadist networks.

2. Analysis

2.1. The attack on the Jewish Museum in Brussels

Mehdi Nemmouche is the name of the French-Algerian who, on 24 May 2014, stormed the Jewish Museum in Brussels, killed four people and fled without being apprehended until six months later. As a result of his petty criminal history —a profile shared by other foreign fighters of his generation— he had spent some time in prison, a period during which he was radicalised (Basra and Neumann, 2016: 32) as one of his incarcerations coincided with that of several of the future members of the Cannes-Torcy cell, including its spiritual leader, Jérémie Louis-Sidney (Alonso, 2015). Inspired by Mohammed Merah, a fellow French-Algerian who in 2012 attacked several Jewish targets in the south of France, Nemmouche shared not only the Cannes-Torcy members' reverence for Merah but also their fierce anti-Semitism. While several members of the Cannes-Torcy cell spent time in Tunisian mosques after the fall of Ben Ali's regime (Thomson, 2014: 75), Nemmouche turned to Syria as soon as he was released from prison in 2012. There he joined the MSM, where Abaaoud had already become a role model of the foreigners' brigade (Hankiss, 2018: 58), and was commissioned to supervise hostages alongside Laachraoui (*BBC*, 2016b) and under the supervision of Salim Benghalem (Seelow, 2015b)[3]. In February 2014, Nemmouche made his way back to Europe, first passing through different Asian countries in order to evade the European authorities (Sayare, 2014). In preparation for the attack, he is known to have been in contact with Abaaoud (Stroobants, 2015) and Dniel Mahi (Cruickshank, 2017), another Belgian KBL jihadist from Zerkani's network and linked to later plots orchestrated by Emni (Van Vlierden, 2017).

2.2. The attacks on Charlie Hebdo's offices and the Hyper Cacher supermarket

The analysis of the *Charlie Hebdo* attack will not go into detail here, as it was claimed by AQAP and ISIS merely congratulated the brothers on their deed. However, it is the Kouachi brothers' close contacts that are of interest to this study as the environment in which they moved is closely linked to the networks used by IS and more specifically Emni to recruit for its external operations apparatus, confirming that both al-Qaeda and IS used the same pools of radicals.

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3   Salim Benghalem was linked to the Buttes-Chaumont network, also known as the 19th arrondissement network, whose members included the Kouachi brothers, perpetrators of *Charlie Hebdo* massacre in January 2015. Previously, Benghalem had been with the younger of the Kouachi brothers, Chérif, in Yemen (Al-Mujahed, 2015), where they forged contacts with AQAP (the organisation that would later claim responsibility for the *Charlie Hebdo* attack) He then travelled to Tunisia with Mohamed El Ayouni and Boubaker al-Hakim, two fellow veterans of the Buttes-Chaumont network, before arriving in Syria thanks to the help of a contact of Abu Iyad (Suc, 2016b).

In this regard, Amedy Coulibaly, a friend of the two brothers, carried out the attack on the Jewish supermarket Hyper Cacher two days after *Charlie Hebdo* and left a recorded statement in which he pledged allegiance to IS and explained that he had coordinated with the Kouachi brothers to carry out an attack on the same dates (Malik *et al.*, 2015).

Chérif Kouachi and Amedy Coulibaly came from the Buttes-Chaumont network, so called because its members used to meet for jogging in the Buttes-Chaumont park in the 19th arrondissement of Paris under the guidance of the ideologue Farid Benyettou. With the network dismantled in 2005, its members tried and imprisoned in 2008 and others relocated abroad (Bennhold, 2008), the French authorities did not count on the possibility of the group reorganising itself during its time in prison and forging contacts there with French-Algerian jihad veterans. This is how Chérif Kouachi and Amedy Coulibaly met Djamel Beghal and Farid Melouk during their imprisonment in Fleury-Mérogis prison (Bonelli, 2015: 6)[4]. They were inspired by the veterans' extensive track records and took them as mentors.

Although none of the three attackers at the *Charlie Hebdo* offices and the Hyper Cacher supermarket had ever set foot in Syria or Iraq, their links to the IS's external operations apparatus were funnelled through their closest friends and links. It is known that in 2012 Melouk moved to Syria with his family, where he was in charge of a training camp and in contact with Abdelhamid Abaaoud (Suc, 2016a).

Of particular interest for this study is the figure of Boubaker al-Hakim, a French-Tunisian born in Paris, with experience in Syria and Iraq in the 2000s. He was a member of the Buttes-Chaumont network and a companion of the Kouachi brothers and Coulibaly. On one of his forays to Fallujah in March 2004, he was accompanied by his brother and his friends Mohammed El Ayouni and Peter Cherif from the Buttes-Chaumont network (Filiu, 2016: 99). There they joined Abu Musab al-Zarqawi's Organisation of Monotheism and Jihad, a group that would later swear allegiance to Osama bin Laden and rename itself al-Qaeda in Iraq (Özdemir and Gürler, 2018: 124). Later, while trying to cross Syria to meet his family, al-Hakim was intercepted by al-Assad's forces and imprisoned in Far' Falastin prison. He was imprisoned for nine months before returning to France, where he was tried along with the other members of the Buttes-Chaumont network.

Released in 2011, and with his Iraqi experience as his calling card, al-Hakim had no problem moving into the jihadist environment, which is why, he headed for Tunisia, the country of his family´s origin after the fall of Ben Ali´s regime. There he joined Ansar al-Sharia (AST), the organisation that Abu Iyad had started together with hundreds of jihadists amnestied with the fall of the regime (Zelin, 2020: 209) and

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4   Beghal, an Algerian, went to France in his twenties and was radicalised in the early years of the Armed Islamic Group of Algeria (GIA). Just after the 1995 Paris bombings, he went to the UK, where he quickly entered the orbit of influence of Abu Qatada and the Finsbury Park mosque milieu (Halliday *et al.*, 2015). He later fought with al-Qaeda in Afghanistan, where he lived with and formed such a close relationship with Abu Iyad that the Tunisian entrusted him with his wife and children to get them out of the country (Sayare, 2016). On the other hand, Melouk, born in France in the 1960s, had fought in the Balkan war (Caillet and Puchot, 2017: 94). On his return to France, he joined the Algerian GIA and became part of the Chasse-sur-Rhône cell, and after the 1995 attacks on French soil he took refuge in Afghanistan (Suc, 2016a).

assumed responsibility for developing AST's military branch, for which it created a training camp in Libya and a free corridor between the two countries for arms smuggling (Filiu, 2016: 100).

He was accompanied to Tunisia by fellow Tunisians Mohamed El Ayouni and Salim Benghalem, but in April 2014 al-Hakim followed Benghalem and went to Syria, where, as reported by Suc (2020a), he quickly rose through the ranks of the KBL, which we equate with Emni for the purposes of this study. In Raqqa, al-Hakim was a neighbour of the French-Algerian Abdelnasser Benyoucef, a veteran of the Moroccan Islamic Combatant Group (MICG), with whom he shared not only a neighbourhood but also leadership within IS's external operations apparatus. According to his ex-wife's statements, Benyoucef was one of the masterminds behind Amedy Coulibaly's attack at the Hyper Cacher, as well as being behind the Verviers plot and the foiled Villejuif attack (*Le Parisien*, 2010), as will be discussed in the next section.

This generational link between jihadi veterans and new IS recruits begins to emerge when analysing the *Charlie Hebdo* and Hyper Cacher attacks, but it is a constant that is repeated in other attacks as well. The coordination from Syria by veterans in some ways also brings us back to the importance that Neumann *et al.* (2011, 837-838) placed at the time on the middle layers connecting al-Qaeda's top leadership with the grassroots groups. This structure was replicated in the organisation of IS and Emni, where middle management acted as recruiters in Europe and masterminds of attacks from Syria, thus becoming the backbone of the organisation by allowing the grassroots to be integrated into the structure and directing the terrorist campaign.

2.3. *The Verviers cell and the foiled attacks in Villejuif and on the Thalys train*

Sid Ahmed Ghlam is an example of an operative who was specifically recruited to carry out attacks in Europe. After an express radicalisation in Strasbourg prison (Chevillard, 2020), this Algerian computer science student in Rheims travelled to Türkiye for a month's stay in November 2014, and again for a couple of weeks in February 2015. In interrogations with French authorities, Ghlam denied having crossed the border into Syria, but admitted meeting in Türkiye with three Islamic State operatives, one of whom was Abdelnasser Benyoucef, the other a Samir Nouad and the third a man Ghlam identified only by the alias Abu Omar. In the absence of further clarification on the real identity of the third operative, it appears that it could be either Abdelhamid Abaaoud, known as Abu Omar al-Belgiki, or Fabien Clain from Toulouse, a member of the Artigat network whose alias was Abu Anas al-Faransi but who sometimes also simply called himself Omar (Seelow, 2015a).

Benyoucef appears to have played a leading role in the preparation of the plot as he chose the initial target for the attack, the Villepinte train station, which was later changed at Ghlam's request to a church in Villejuif, and which was ultimately failed when Ghlam accidentally shot himself in the leg and was arrested by the security forces (Suc, 2020b). For the execution of the attack, planned for April 2015, Ghlam was in

contact by message with Samir Nouad (Suc, 2017), and a certain Macreme Abrougui, an IS operative linked to Adrien Guihal, a jihadist from the Artigat network and a close friend of Fabien Clain (Boutry *et al.*, 2018), all members of Emni.

The preparation of this attack by a single individual, briefly trained abroad and supervised during the entire phase leading up to the execution of the attack, would be a precursor to the *modus operandi* that Emni would perfect with each new attack.

Among the failed attacks orchestrated by Emni, we also find Ayoub El Khazzani's assault on the Amsterdam-Paris Thalys train on 21 August 2015, which was unsuccessful as passengers managed to subdue the attacker. El Khazzani, of Moroccan origin, first resided in Spain and then lived in several European countries before settling in Molenbeek, Belgium, where he frequented the Loqman mosque (Warlop, 2015), which in turn had been a meeting place for several members of the Zerkani network (Ponsaers, 2017: 181).

Like Ghlam, El Khazzani spent only a short time in Syria. He boarded a flight to Istanbul on 10 May 2015 (Laffargue, 2015), and returned to Europe after the Balkan route opened just one month later. He made the return trip with Abdelhamid Abaaoud, who accompanied him as far as Hungary, where they parted ways until they met again in Brussels at a safe house specifically set up to accommodate those returning to Europe as sleeper agents ready to be activated. Abaaoud and El Khazzani's journey was made possible thanks to the work of the Algerian Bilal Chatra, who scouted the route in advance, informing Abaaoud at all times of the existing checks and difficulties (Brisard and Jackson, 2016: 12).

Chatra, who was expected by the Emni leadership to carry out the attack together with El Khazzani, fled the shared flat before the planned day of the attack (Seelow, 2017) and was only apprehended in Germany in 2016. However, his knowledge of the border crossings had been useful not only for El Khazzani but also for the members of the Verviers cell, which had been dismantled in January 2015 (Pokalova, 2020: 94). It is known that Chatra had facilitated the entry into Greece of Khalid ben Larbi and Soufiane Amghar, two members of Zerkani's entourage who trained in Syria with the KBL and who were also sent back to Europe at the behest of Abaaoud (La, J., 2017). After the two were killed in a police operation, others involved in the Verviers cell were brought to trial. The cell's coordination was attributed to Abaaoud from Greece (Callimachi et. al, 2015) under the guidance of Dniel Mahi (Van Vlierden, 2017) and direction of Abdelnasser Benyoucef and Samir Nouad (Vincent, 2020).

2.4. The attacks on the Bataclan, the Stade de France and various Parisian establishments

As a result of the early dismantling of the Verviers cell and the failed attacks on the Thalys and Villejuif, Benyoucef allegedly left the ranks of Emni to go to eastern Syria to direct military operations (Suc, 2020b), while Abaaoud took on the task of

coordinating —this time from within Europe— the new forces arriving from Syria (Callimachi *et al.*, 2016).

The November 2015 attacks in Paris were carried out by three groups of troops under the coordination of Abaaoud and with the help of close friends from Molenbeek, such as the Abdeslam brothers. Salah Abdeslam, Brahim's younger brother, played the logistical role of picking up the operatives in Hungary or in the countries they were arriving in as they entered Europe in a staggered manner, mimicking the flow of refugees (Brisard and Jackson, 2016: 13).

The group that attacked the Bataclan was composed of three operatives skilled in combat. Samy Amimour and Ismaël Omar Mostefaï, both of Algerian descent and living in France, had presumably met online through the Ansar al-Haqq forum run by Adrien Guihal, which led them to make the journey together from France to Syria, where they joined the KAM (Breton, 2021). On the night of 13 November 2015, they attacked the Bataclan with Foued Mohamed-Aggad, an operative of Moroccan origin radicalised by Mourad Farès in Strasbourg and who joined the KBL when he arrived in Syria (Seelow, 2014).

The commando that attacked the Stade de France comprised three other members (the identity of one of them remains unknown although he is presumed to be of Iraqi origin, as was the partner with whom he entered Europe). Both were travelling with false papers, but it has been established that one of them was one Ammar Ramadan Mansour Mohamad al-Sabaawi from northern Iraq and recruited in Mosul at the time the city fell under IS control (Jacob, 2017). The third member of the cell that attacked the national football stadium was the young Bilal Hadfi, a French national living in Belgium, where he underwent an express radicalisation process after the *Charlie Hebdo* attack, leaving a few weeks later for Syria (Chan and Schreuer, 2015). Contact with Abaaoud had no taken place until the two men met in Syria where they were fighting among the ranks of the KBL (Higgins and Freytas-Tamura, 2015). Abaaoud was in telephone contact with Hadfi until shortly before the first of the three commando members blew himself up (Brisard, 2015: 6), thus setting in motion the third group, in which Abaaoud himself participated.

Thus, the third commando that attacked in Paris that night was composed of the elder of the Abdeslam brothers, Brahim, with whom Abaaoud had shared time in prison, and Chakib Akrouh, a Belgian-Moroccan neighbour of Abaaoud and a regular at the mosque frequented by Zerkani's followers (Ponsaers, 2017): 181). In a Seat, Akrouh and Abaaoud drove through the streets of the tenth and eleventh arrondissements of Paris, firing assault rifles at diners in Le Carrillon, Le Petit Cambodge, La Bonne Bière and La Belle Equipe, while Brahim Abdeslam blew himself up at the Comptoir Voltaire brasserie (Vaudano, 2015).

A final person who played a leading role in the attacks is Salah Abdeslam, who not only met the fighters as they arrived in Europe, booked the flats and cars that were to be usted to carry out the attacks, and also chauffeured the Stade de France commando

and then fled the scene, leaving an explosive vest in the car that he chose not to detonate (France 24, 2016b).

Helped by friends on the night of the events, he managed to return to Belgium, where he stayed in hiding for several months until the police tracked him down thanks to a tip-off from a friend of Abdeslam (*L'Obs*, 2016). Abdeslam's arrest along with another operative probably accelerated the Brussels attacks amid fears that more cells would be dismantled (France 24, 2016a), as it seems that the initial idea was to attack again in Paris during the European Football Championship in the summer of 2016 (Norman, 2016).

2.5. Brussels airport and metro attacks

The commando behind the Brussels airport attack consisted of Ibrahim El Bakraoui, Najim Laachraoui and Mohamed Abrini. The first two were killed on the spot when the explosive belts they were wearing detonated, while Abrini fled the scene with no active involvement (*BBC*, 2016a). A Belgian of Moroccan origin, Ibrahim El Bakraoui grew up in a working-class neighbourhood north of Brussels, became radicalised during his time in prison, and upon his release from prison made his way to Syria (*The New York Times*, 2016). On the other hand, Laachraoui, one of the few operatives without a criminal record who came from the Zerkani orbit, had not only studied electromechanics (Blaise and Breeden, 2016) but had also previously worked at Zaventem airport (Mulholland, 2016), which undoubtedly facilitated the selection of the airport as a target and the explosives as a means of action. Finally, Abrini, a third wheel**,** who was only apprehended on 8 April 2016, was, along with Salah Abdeslam, one of the few operatives directly involved in the attacks who could be called to stand trial (Norman, 2016). Abrini was a neighbour and childhood friend of Abaaoud and the Abdeslam brothers. He underwent an expplicit radicalisation after learning of his brother's death on the battlefield, which led him to travel to Syria to honour his death and to meet Abaaoud, who skilfully recruited him for an attack in Europe (Schuurwegen, 2020).

On the other hand, there is the commando that attacked the Brussels metro, made up of Khalid El Bakraoui, Ibrahim's older brother, and Osama Krayem, a Swedish national of Syrian origin. While Khalid shared his brother's dabbling in the criminal activities as a prelude to radicalisation (*The New York Times*, 2016), Krayem joined extremist circles in the Rosengard district, known as the Swedish Molenbeek as it also produced a number of foreign fighters. The intensive consumption of Anwar al-Awlaki's sermons was the final trigger for Krayem to embark on the road to the Caliphate (Watkinson, 2016).

IS claimed responsibility for both the November attacks in Paris and the March attacks in Brussels. Just a day after the attacks on French soil, IS published a *nasheed* (a cappella chant) in which Fabien Clain claimed responsibility for the attacks with a musical background composed by his brother Jean-Michel (Boutilly, 2019).

With regard to the attacks in Belgium, it was Amaq, IS's news agency, that claimed responsibility for the attacks on the day they took place (*Reuters*, 2016).

The trial of those involved in the November attacks in Paris found that the masterminds behind the plot in France —who also masterminded the attacks in Belgium— were Oussama Ahmad Atar and Obeida Aref Dibo, both allegedly killed in Syria and tried in absentia. Oussama Ahmad Atar was a Belgian-Moroccan veteran of the jihad in Iraq during the time of AQI. He was a cousin of the El Bakraoui brothers, whom he recruited for the Brussels commandos. Imprisoned by the Iraqi regime, Atar was held in Abu Ghraib, Camp Bucca and Camp Cropper prisons (Joscelyn, 2017), from where he was released thanks to international pressure from Amnesty International, allowing him to return to Belgium and from there return to the Middle East, where he soon rose through the ranks of Emni (Vargo, 2021: 82). On the other hand, Obeida Aref Dibo, of Syrian origin, is thought to have held a position as Atar's deputy with more operational responsibilities, as he was in charge of recruiting and training some of the agents who were to be sent back to Europe (Campion, 2021).

The French justice system found Fabien Clain guilty of having claimed responsibility for the November attacks, but his responsibility for organising them could not be proven (*L'Obs*, 2022). On the other hand, Matthieu Suc (2019) also listed Boubaker al-Hakim as a possible co-author of the November 2015 attacks in Paris. This theory fits in with the correlation that this article seeks to draw between the Franco-Belgian and the Libyan-Tunisian contingents in the context of IS's external operations apparatus. In this line of triangulation, it is not trivial that the attacks that took place in France in 2015 coincide not only in time, but also in form and content, with the attacks IS orchestrated in Tunisia.

2.6. *The attacks on the Bardo Museum in Tunis, Sousse beach and the seizure of Ben Gardane*

The first mass attack to hit Tunisia in 2015 took place on 18 March at the Bardo Museum, just two months after *Charlie Hebdo*. It was perpetrated by Yassine Laabidi, also known as Abu Anas al-Tunisi, and Jaber Khachnaoui, alias Abu Zakaria al-Tunisi. As indicated by their *kunya* (nicknames), both were Tunisian nationals and are known to have been trained in Libya, with the suspicion that Abu Zakaria had also previously spent time in Syria and Iraq (Reidy, 2015). The attack was claimed by Ifriqiyah Media, a Tunisian pro-Islamic State media outlet, and by Jund al-Khilafa, a group formed in January 2014 by defectors from Katibat Uqba ibn Nafi (KUIN) and fighters returning to Tunisia from jihadist havens, such as Syria and Libya, who had pledged allegiance to IS (Zelin, 2019: 66).

The next attack that made headlines around the world and ultimately buried Tunisia's tourism business for years to come was the attack perpetrated by Tunisian Seifeddine Rezgui on 26 June 2015 at a resort in Sousse. More deadly than the Bardo attack, the Sousse attack took place on the same day that France was horrified by the

beheading of the director of a transport company in Saint-Quentin-Fallavier by his employee Yassin Salhi, who had been radicalised since the 2000s and whose contacts could also be traced back to IS in Syria. In terms of timeline, Tunisia experienced an attack on a bus of the Presidential Guard twelve days after the 13 November 2015 attacks in Paris, while in March 2016 there was the failed attempt to establish an IS province in the town of Ben Gardane in southern Tunisia, just two weeks before the Brussels attacks (Filiu, 2016: 100).

Both the Bardo museum and Sousse beach attackers and the operatives involved in the foiled seizure of Ben Gardane were linked to the Islamic State in Libya, which was able to orchestrate the events from the close proximity of a camp in Sabratha (Echeverría, 2016: 12-13). Of the Tunisians linked to Sabratha, one of the names believed to be behind the Bardo and Sousse plots is that of Chamseddine al-Sandi, who was responsible for recruiting the operatives in Tunisia and paying for their travel to Libya, as confirmed by some of the defendants at the trial of the attacks *(Agence France-Press*, 2019). Also found guilty of planning the Bardo and Sousse attacks were Moez al-Fezzani, better known by his alias Abu Nassim, and Noureddine Chouchane, both IS leaders in Sabratha. Exiled to Italy during the Ben Ali regime when persecution of the Islamist movement was at its fiercest, al-Fezzani took his first steps with al-Qaeda in Bosnia and Afghanistan, while Chouchane tried unsuccessfully to join the organisation led by al-Zarqawi in Iraq. With the change in the Tunisian regime, both returned to Tunisia to join the newly created Ansar al-Sharia in Tunisia, where al-Fezzani's experience helped him quickly rise through the ranks of AST and from there he travelled to Syria where he would first fight with Jabhat al-Nusra and then with the KBL in IS. In 2014, he was one of the first fighters to return to North Africa to help establish the first IS *wilayas* in Libya (Marone and Vidino, 2019: 21-22). In Chouchane's case, he went directly from Tunisia to Libya, where he soon established himself as one of the *emirs* of the KBL in Sabratha (Zelin, 2020: 234; Saal, 2017: 20).

From Boubaker al-Hakim's own comments (Dabiq, 2015: 62), it can be inferred that he was somewhat connected to the Bardo Museum bombing, either as an instigator of it or with prior knowledge about the plot. In any case, the link between Boubaker al-Hakim and Chamseddine al-Sandi, Moez al-Fezzani and Noureddine Chouchane can be easily traced to the figure of Seifallah ben Hassine, the founder of AST.

2.7. *The attack on Breitscheidplatz in Berlin*

The progressive loss of territory in Syria and the difficulty of maintaining several dormant cells in Europe not only led to a shift of the base of operations from Syria to Libya, but also changed the *modus operandi* of the attacks, which were now conceived without the need for foreign fighters who had previously trained in conflict zones. This is how Sabratha became not only a safe haven from which to orchestrate the Tunis attacks, but also as the platform from which IS's external operations apparatus

instigated a second wave of attacks in Europe. These attacks took place in Berlin on December 2016 and in Manchester on May 2017.

The attack in the German capital was carried out by the Tunisian Anis Amri who rammed a lorry into a Christmas market on Breitscheidplatz on 19 December 2016, killing eleven people. Anis Amri had fled Tunisia in the midst of the general chaos that followed the Jasmine Revolution. Placed in a juvenile detention centre in Italy for illegal entry into the country, he assaulted one of the centre's workers and ended up spending time in prison where he came into contact with radical ideas. After his release, he moved to other European countries, eventually ending up in Germany. There he came into contact with the community established around the Iraqi cleric Ahmad Abdelaziz Abdullah, nicknamed Abu Walaa, and the top representative of IS in Germany. During Amri's interactions with various members of the Abu Walaa´s network, the possibility of a truck attack was already being discussed, and fellow network members such as Boban Simeonic and Hassan Celenk supported Amri's plan to stage an attack in Germany (Heil, 2017).

Besides his contacts with Abu Walaa's entourage, intimately linked to IS in Syria and to the foreign operations apparatus through the relationship with the convert Martin Lemke who came to lead the German battalion within Emni (Cruickshank, 2016), Anis Amri communicated via Telegram with Tunisian compatriots who had enlisted with IS in Libya. It was thanks to them that he ended up carrying out the Breitscheidplatz attack, guided by a document on conducting martyr operations that he had received from one of the operatives in Libya, who was also the one who spoke to him via instant messenger in the final hours leading up to the attack (Flade, 2017). Just days after the attack, the Islamic State news agency Amaq released a video recorded by Amri paying homage to Abu Bakr al-Baghdadi (Smith-Spark, 2016), confirming that the attack was carried out by an IS-led operative.

2.8. The Manchester Arena bombing

Just as Amri was able to outwit German intelligence services, Emni also encouraged the execution of the Manchester bombing in May 2017 by Salman Abedi in a bid to push for actions that did not require the coordination of multiple operatives. Thus, on 22 May 2017, the young British man of Libyan origins blew himself up in an action of which only his brother Hashem was aware, and in which the same type of explosives used in the Paris and Brussels attacks were used (Saal, 2017: 19).

The Abedi brothers came from a Libyan family who had emigrated to the UK in the 1990s to escape the Gaddafi regime. The Abedis were old acquaintances of the family of Abu Anas al-Libi, one of al-Qaeda's hardcore operatives in the Afghanistan days who had been stationed with Osama bin Laden in Sudan before moving to the UK (Abdulwahhab et al., 2013), where he temporarily met with the Abedis, whom he already knew from his time in Libya. Given the social environment in which the Abedi brothers had grown up, it is not surprising that at the dawn of the revolution

they both visited the country with their father Ramadan Abedi, who took an active part in the insurgency against the Gaddafi regime by joining a unit of the February 17th Martyrs Brigade (De Simone, 2020), which was close to ASL (Glenn, 2017).

Ramadan and his wife settled in Libya upon the fall of the regime. Salman and Hashem, who remained living in the UK, visited them regularly. It is on one of these trips that Salman allegedly first took up arms to fight in Ajdabiya (Doward *et al.*, 2017) and visited the coastal town of Sabratha, where he came into contact with KBL members who would eventually supervise and guide him —from a distance— in the preparation and execution of the attack (Callimachi and Schmitt, 2017).

3. Conclusions

The guiding thread of this article is based on the assumption that Emni and the KBL found common cause in Syria. Indeed, this assumption is confirmed by the fact that the KBL —mainly made up of Libyans and Tunisians— recruited European fighters from among the foreigners who were part of the KAM within the MSM; the same fighters whom Emni also claimed to have trained.

The Europeans who chose to join IS were mostly the children and grandchildren of Muslim families who migrated to Europe in the second half of the last century, with a small but not insignificant percentage of new converts. They tended to come from deprived neighbourhoods or places where violent militant networks had proliferated in the past. Disaffection with the host societies often meant that they had run-ins with the law, so that the time spent in prison reinforced, in many cases, a process of incipient radicalisation.

Beyond the fact that both units used the same pool of recruits to swell their ranks, the KBL's bid to recruit French and Belgians is not only explained by the fact that they shared French as a *lingua franca* with the Tunisians, but also by the convergence of their Arabic dialects: the *Darija* of the French and Belgians —mostly of Moroccan origin— was closer to the Maghrebi speech of the Libyans and Tunisians than to the Levantine dialect of the Middle East.

The hypothesis that Emni and the KBL were organised under one umbrella is supported by the fact that both entities sometimes claimed responsibility for the same attacks. Thus, both Emni and the KBL claimed responsibility for the attack on the Jewish Museum in Brussels and the Thalys train attack. Abdelhamid Abaaoud, the European coordinator of the Verviers cell and of the mass attacks in Paris and Brussels (ultimately directed by Emni in Syria), was also claimed by both entities as their own.

The management structure that is supposed to be behind the foreign operations apparatus in its first venture in the Levantine caliphate includes names such as Abdelnasser Benyoucef, Boubaker al-Hakim, Fabien Clain and Oussama Ahmad Atar, all of them linked to networks in France and Belgium previously associated with al-Qaeda, which they used not only for recruitment but also for carrying out attacks

on European soil. It follows, therefore, that one of the crucial reasons why certain European countries were victims of attacks on the scale of those analysed in this article is due, above all, to the strength of the pre-existing networks that had been established on European soil since the 1990s. Composed largely of foreign fighters returning from the Afghan and Iraqi jihad, their structures have managed to survive the onslaught of law enforcement while keeping alive the bonds forged on the battlefield.

Thus, the figure of the French-Tunisian al-Hakim is closely linked to that of another Tunisian, Seifallah ben Hassine. The latter, from his time in Afghanistan, was an old acquaintance of Khalid Zerkani, the leader of the Belgian network that provided the most recruits to IS's foreign operations service, and of the Algerian Djamel Beghal, responsible for the radicalisation of the Kouachi brothers and Amedy Coulibaly.

On the other hand, the Ansar al-Sharia organisation that formed around Ben Hassine at the dawn of the Jasmine Revolution in Tunisia had a knock-on effect for many European fighters —mostly French— who passed through Tunisia before arriving in Syria. Thus, the Tunisian attacks in 2015 are similar to those that Europe experienced around the same time, perfectly illustrating the confluence between the Franco-Belgian corridor and the Libyan-Tunisian contingent in a triple flow of movements from Tunisia to Syria, from Tunisia to Libya and from Syria to Libya.

The linguistic and cultural affinity that favoured this triangulation of European and Maghrebi foreign fighters was facilitated by the loss of territory in Syria and the gradual move to Libya as a new base of operations for IS. This would explain why IS's first foreign operations in Europe were led by French and Belgians, while in the second wave of attacks in Tunisia, Germany and the UK it was Libyans and Tunisians who took the lead. The KBL's return to Libya and the increasing complexity of having operatives deployed in an increasingly scrutinised Europe also meant that the format of the attacks evolved towards more autonomous actions that did not require the coordination of many people or extensive logistics on the ground for the provision of weapons and explosives.

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Libya's role as a consolidated centre of illicit economies and its impact on the terrorist phenomenon in the Sahel

Abstract

This article examines the impact of illicit economies on the security and stability of Libya and its regional neighbourhood. It identifies different sources of illicit economies, such as oil smuggling, drug trafficking, human trafficking and arms trafficking, and highlights the security challenges associated with their proliferation. The paper suggests that illicit economies have helped shape the dynamics of conflict, governance and development in the post-revolutionary context.

The analysis also concludes that there is a strong link between the illicit economy in Libya and the rise of terrorism in the Sahel region. Terrorist groups have exploited the vast black market and black economy created by the smuggling of arms,, drugs and migrants into the Sahel to fund their structures and consolidate their presence on the trans-Saharan routes. The document argues that the political instability and conflict in Libya have created a power vacuum that has allowed criminal gangs and violent extremism to flourish, exporting from Libya a major source of regional instability.

Keywords

Libya, Political fragmentation, Illegal economy, Violence, Sahel, Terrorism.

1. Introduction

Libya has been in a constant cycle of fragile peace and violence since the fall of its former leader, Muammar Gaddafi, in 2011. The chaos that followed the collapse of the Gaddafi regime created a power vacuum that has allowed the proliferation of actors involved in corruption, organised crime and extremist movements. The state is plagued by unprecedented political fragmentation and economic instability.

The country has also become a hub for regional and transnational illicit trafficking ranging from human and drug trafficking to oil and arms smuggling. The lack of effective governance and constant clashes for recognition between factions in Tripoli and rival forces in the west of the country have acted as a catalyst for the black market as means of survival, not only for armed groups and insurgents but also for leaders.

The illicit trade in oil and other natural resources has emerged as one of the main sources of income for these criminal organisations, which have been able to take advantage of the lack of oversight and take large quantities of these resources out of the country and defraud the state for their own profit. In addition, the country's geographical location makes it an ideal transit point for human traffickers, who use it as a gateway to smuggle migrants and refugees into Europe (Amnesty International, 2020).

The consequences of Libya´s recent political and economic history have had a significant impact on the stability of the region. Some research even points to the long history of criminal activities such as the illegal arms or drug trafficking as a vector for the spread of conflict in the Sahel region, which has been exploited on by violent extremist organisations that exacerbate existing security problems (Micallef *et al.,* 2019: 5). The crisis in Libya, which promoted terrorist groups to penetrate beyond its borders and advance their agenda with limited state opposition, risks transferring the Libyan reality to the rest of the region, thereby making the presence and dominance of terrorism chronic in parts of Mali, Burkina Faso, Niger or Nigeria.

Against this backdrop, this paper seeks to answer two questions. First, the paper analyses the extent to which the various actors, methods and impacts of the illicit economies in Libya have shaped the dynamics of the conflict, lack of governance and lack of development in the post-revolutionary context. Given the opacity of the real size of the illicit economy in the country, as well as the obvious limitations of access to information and the need for human sources to produce primary data, the analysis relies on sources from official channels and reputable research centres. The former sources are official agencies involved in the investigation and monitoring of illegal trade, while the latter are publications by specialists in the analysis of security issues in Libya and its neighbouring region.

Second, given the nature of illicit economies and their impact on s regional security and stability, this article examines whether the Libyan context has actively fuelled the emergence of violent extremist movements in the Sahel, a high-profile exercise that will help to understand and address one of the most significant threats to global security today. The article draws on reports and authoritative sources in the field of

counter-terrorism such as reports to the UN Security Council, experts in the field of violent extremism, results of law enforcement operations and research by multilateral working groups on countering money laundering and terrorism financing.

The paper begins with a brief contextual analysis of the current political order in Libya as a prelude to the role of the political economy in the dynamics of the illicit trade in the country, before outlining the ongoing conflict landscape that will help to understand the growing importance of the illicit economy and its key actors. Subsequently, the article will analyse how the Libyan conflict is exacerbating the crisis in the Sahel and in creating interactions between organised crime and terrorist organisations, with Libya at the nexus of this criminal network.

2. Libya's current political order

Libya is currently in a state of civil war and chronic instability. It is trapped in cycles of violence and political stalemate. The country has been divided since 2011, when a popular uprising led by the younger generation rose up against the regime and overthrew dictator Muammar Gaddafi. After many reformulations and capitulations of power, two prime ministers are currently vying for recognition as the *de jure* government: the Government of National Unity (GNU), led by Dbeibah and based in the capital, Tripoli, and the Libyan House of Representatives-backed government led by Fathi Bashagha (Security Council Report, 2022: 1).

From the eastern city of Tobruk, Khalifa Haftar, head of the powerful self-proclaimed Libyan National Army (LNA), is the *de facto* ruler of much of the east and south of the country. Haftar is a pivotal figure among rival factions and has sought to rule over the whole of Libya. However, his failure has recently led him —not without considerable reluctance— to balance his relations with political leaders in Tripoli and his support of Bashagha's government in order to further his political and personal interests. The presence of mercenaries, armed militias, foreign fighters and international powers involved has further exacerbated the conflict, stalling the political process for more than a decade.

The GNU, which is supported by the UN and several Western countries, is based in Tripoli, while Bashagha wields power from Sirte and Benghazi (Security Council Report, 2022: 5). The former is regularly targeted by Haftar's forces from Tobruk, which are supported by several countries in the region, including Egypt and the United Arab Emirates, and have been gaining ground in recent years.

The political situation in the country is fragile, with various actors vying for power and opportunities for national reconciliation systematically missed . Although the GNU and Haftar have engaged in peace negotiations, followed by a cessation of hostilities by the end of 2020, no lasting solution has been reached so far. Some tentative steps are being attempted in this direction: for example, the recent approval

of a coordination mechanism by the 5+5 Joint Military Commission (JMC)[1] and the liaison committees for the withdrawal of mercenaries and foreign fighters from the country (UNSMIL, 2023).

The current conflict in Libya has led to unprecedented violence and human suffering, with thousands killed and more than 1.5 million displaced (IDMC, 2022). The dire humanitarian situation in the country is characterised by a lack of access to basic necessities such as food, water and healthcare, and the approval of a national budget to improve infrastructure or basic services is still pending (OCHA, 2022). The UN estimates that 800,000 people needed humanitarian aid in 2021, a dramatic figure considering that Libya's population was 6.735 million in the same year (World Bank, n.d.). In addition, the civil war has devastated the country's economy by disrupting oil exploration and leaving oil and gas production at historic lows, leading to hyperinflation and commodity shortages (Shaltami, 2019: 6). The ongoing fighting has also disrupted the provision of basic services such as electricity and education, putting the fragile peace at risk of collapse at any moment.

The international community has struggled to find a solution to the conflict. The United Nations has been at the forefront of efforts to broker a peace agreement between the warring parties, although the peace process has been complicated by the involvement of foreign countries, that have supported both sides of the conflict.

European Union (EU) policy towards Libya is geared towards improving border security and managing migration flows, both of which are seen as major security challenges for Europe. This policy is part of the EU's broader efforts to address instability in the Sahel region and counter the terrorist threat posed by movements such as the Support Group for Islam and Muslims (JNIM) and the Islamic State in the Sahel (IS-Sahel). Since the fall of Gaddafi, the EU has played an active role in improving the country's security, but its efforts have been plagued by challenges and divergent interests among its member states.

One of the main challenges facing the EU in Libya is the persistent conflict and instability, making it difficult for the EU to coordinate its efforts and achieve its objectives in the country. To this must be added the different motivations among member states. Some countries, such as Italy, have strong interests in Libya's stability due to its proximity to Europe and potential migration flows, as well as trade.[2] Other countries, such as France, are more focused on counter-terrorism and have been accused of supporting different factions in the conflict.[3] However, Italian economic

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1   The committee consists of five members of the GNU and five members of Khalifa Haftar's forces.

2   As Meloni's recent visit to Libya highlighted, there are important economic interests at stake for Italy. The prime minister's visit was aimed at signing a major gas deal with Libya, underlining Rome's interest in securing energy resources and economic cooperation with its North African neighbour. Available at: https://www.reuters.com/world/italys-meloni-expected-sign-major-gas-deal-she-starts-libya-visit-2023-01-28/

3   According to analysts on the ground, Libyan officials accuse France of supporting Haftar's offensive and obstructing EU diplomatic efforts to impose sanctions on him. Despite ample evidence, France denies

interests may complicate EU efforts to address political and security challenges in Libya. Libyan officials furthermore consider that France's actions contradict the official joint European policy of support for the GNU. The main source of influence that Europe as a whole has in Libya is its diplomatic weight, particularly that of France and the UK, but diverging interests have made it difficult for the EU to speak with one voice and constrained its ability to take decisive action on the country as a whole.

In any case, Libyan officials see Europe as an important energy partner and a potential source of political legitimacy and financial support. But they are also aware that Europe is a complex patchwork of states and competing interests. Libyan officials understand that EU members can provoke political change in Libya through diplomatic, economic and military means and that they, in turn, can be influenced by Libyan policies (el-Gomati, n. d.).

For their part, Egypt and the United Arab Emirates financially and militarily support Haftar and his allied forces, while Russia has allowed the NLA to consolidate its hold on the eastern and southern flank, where most of the country's oil fields are located (*The Economist*, 2019). With the presence of 2,000 Wagner Group contractors since 2019, the mercenaries, under Kremlin direction, are currently operating in Libya and Ukraine. In Libya, they contribute to Haftar's campaign to wrest control of the country from pro-GNU governments and forces; they act as a tool of Russian pressure to destabilise Europe. Libya has oil reserves of 48 billion barrels and more than 1.5 trillion cubic metres of natural gas, which establishes it as a potential energy giant on Europe's doorstep (Unlacke, 2022).

With almost 40 % of Africa's total oil reserves more than two-thirds of which will be exported to EU countries in 2020, Wagner has sought to undermine this in order to prevent Europe from reducing its energy dependence on Russia and turning to a potential energy partner in Libya. The Wagner group is present and controls oil fields with high oil production levels, such as Sharara, in the south-west of the country; it also has military bases from Sirte to Brak, near Sabha (Unlacke, 2022). Wagner's mercenaries deliberately act in pursuit of Moscow's geopolitical interests in Libya and project their strength in the rest of Africa, even operating independently of Haftar's forces and beyond their control.

Meanwhile, Türkiye is leading the resistance to Haftar's troops and their international allies, although along the way it is taking the opportunity to advance its energy agenda and reconfigure its maritime borders with Libya in a way that allows them to continue exploring for hydrocarbon deposits. An example of this was the signing of the Memorandum of Understanding (MoU) between Türkiye and the government of Dbeibah in October 2022, which would allow exploration drilling activities in other countries' exclusive economic zones, including those of Cyprus and Greece (AFP, 2022).

these allegations, and government officials are leaning towards the possibility that Paris is seeking a new alliance with its Middle Eastern and North African partners in Libya. Available at: https://ecfr.eu/special/mapping_eu_leverage_mena/libya

Regarding Libya's political regime, both Ankara and Paris are seeking the resumption of elections to establish a presidential system, which is opposed by rival factions. On the other hand, parliamentary elections remain in limbo as the majorities in the rival legislative bodies strike down any electoral laws in order to retain their seats (Lacher, 2023). For their part, the leaders of the dozens of armed militias acting at the will of rival governments are playing an increasingly prominent role in politics, sitting at the negotiating table and building embedded clientelism within the Libyan political apparatus.

Libya has thus been facing a complex crisis since the fall of the Gaddafi regime in 2011, which has led to the fragmentation of the country, the emergence of multiple centres of power and the collapse of state institutions. The continued instability and governance vacuum has allowed criminal groups to operate with relative impunity, leading to the consolidation of illicit economies and promoting the consolidation of extremist activities —such as terrorism— on its southern flank.

3. The political economy in the dynamics of illegal trade

Black markets in Libya have become a crucial part of the post-revolutionary landscape since 2011, intersecting with and shaping the different dimensions of the conflict Illicit trade that has become a major source of power, wealth and influence for the actors involved, creating a parallel market that operates outside state control and regulation.

According to research by the United Nations Interregional Crime and Justice Research Institute, it is often representatives of the state apparatus itself who are enmeshed in illicit activities, with a high volume of corruption systematically undermining the legitimacy of institutions. Embezzlement within the state itself, in a country where the public sector employs 70-85 % of of the working population, constitutes a large illegal market in areas such as construction or the allocation of public contracts (UNICRI, 2021: 20).

Libya's war profiteers feed off the country's tangible assets, creating patronage and clientelistic networks that allow them to reinvest their capital to profit not only in times of war but also in an eventual post-conflict scenario. Property is often the most attractive target. According to Wolfram Lacher, a researcher at the German Institute for International and Security Affairs, a number of local sources claim that relatives of Dbeibah —the head of the Western-backed government in Tripoli— have employed third parties to take over properties in the upscale district of Hay al-Andalus, while the leaders of the different militias on both sides have taken over beach resorts, cafés and private clinics, among others (Lacher, 2023).

In Benghazi, Haftar's commanders have been able to capitalise on their power by seizing the homes of suspected terrorists who were forcibly evicted from their homes. On the business side, examples given to the researcher point to the acquisition of new

shopping centres by a businessman with a history of drug smuggling and links to one of Haftar's two sons, Saddam.[4] According to Lacher, Saddam himself (informally) owns a private bank in Benghazi, which he has used to finance Berniq Airways, a new private airline (Lacher, 2023).

Several local sources also echoed the Libyan Audit Office's 2021 annual report, published in 2022. The report, which aims to monitor the country's financial situation, denounced violations found the Government of National Unity, the Central Bank of Libya (CBL) and the National Oil Corporation (NOC). Among other non-transparent activities, the auditors found evidence of the GNU's alleged use of the emergency budget to book flights and hotels, as well as to provide gifts and other services to Prime Minister Dbeibah. Development contracts were also been awarded without a public tender process (El-Assasy, 2022).

The web of private speculators and public actors who use their position to enrich themselves is a very long list. However, this practice is nothing new, as the organised crime operating in Libya has its roots in the legacy of state-led corruption and predation under the Gaddafi regime, which co-opted and relied on criminal networks for its own survival and expansion. It was precisely the collapse of the state structure and the proliferation of armed groups after the revolution that created a power vacuum and allowed these networks to flourish and diversify their operations. Today, they rely not on a corrupt regime under a single leader but on a complex criminal structure of officials, militia leaders, businessmen and warlords. They have become key players in the current conflict, enriching themselves and providing financial, logisitical and human resources to the warring sides.

The illicit oil trade, which accounts for most of the country's wealth, has been particularly significant in Libya's criminal economy, with losses estimated at nearly $1 billion annually (Kirchgaessner and Tondo, 2018). The country has Africa's largest oil reserves and the collapse of state institutions and the ongoing civil war have allowed criminal gangs and armed militias to exploit its oil resources. The US Treasury Department's Office of Foreign Assets Control (OFAC) sanctioned six individuals, 24 entities and seven vessels in 2018 for illegally profiting from Libyan oil (Department of the Treasury, 2018). On several occasions, Haftar's forces have even been accused of benefiting from the illicit market in the oilfields that the NLA has managed to bring under its control through an outside support network. In 2020, in the midst of an oil blockade and shut-down of oil wells, security sources reported that Haftar had signed an illegal agreement to monopolise the country's oil sector, bypassing the NOC. Investigations have also revealed extensive links between brigades loyal to Haftar and the smuggling of petroleum products at facilities such as al-Sarir (Noria Research, 2019:15).

The illegal oil trade has caused significant losses to the Libyan state and to international oil companies operating in the country. The lack of state control over oil facilities and

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4   According to a leading Libya analyst, Wolfram Lacher, the businessman published videos in 2022 in which he bought a hunting falcon for one million dollars and then gave it to Saddam as a gift. *Source*: *New Left Review*.

terminals, coupled with the absence of an effective navy and coastguard, has facilitated the theft and export of crude oil and refined products, mainly to Europe and Turkey, by a variety of actors, including armed groups, private smugglers and corrupt officials. Over the last decade, the declared rulers (i.e.state officials, businessmen or militia leaders) have been able to profit from unprecedented illicit enrichment by taking advantage of their position and influence. One example is Fahmi Salim Musa Ben Khalifa. A notorious arms dealer, people trafficker and oil smuggler (nicknamed the 'smuggler king'), this individual was, prior to his arrest in 2017, selling smuggled oil products on the black market at a cheaper price (Zaptia, 2017). His activities in the coastal towns of Zuwara, Zawia and Sabratha were linked to oil smuggling, but he was also allegedly to have been involved in property trading and resort construction activities in Malta and Turkey.

In the case of links to terrorism, the evidence is also thick. In December 2019, the ENL-aligned Benghazi Central Investigations Directorate arrested two individuals suspected of smuggling, in cooperation with an Egyptian national, with the intent to fund the self-proclaimed Islamic State (US Department of State, n.d-a.). Following the arrests, firearms and ammunition were recovered from their homes. Both confessed and identified two other suspects, whose cases have been referred to the Benghazi prosecutor's office.

Oil smuggling has not only undermined the legitimacy and revenues of the Libyan state, but has also created a parallel market that fuels the conflict, undermines the peace process and threatens the regional stability. These activities have also had a profound impact on the Libyan economy, contributing to currency devaluation, fuel shortages and the erosion of state revenues. In addition, the illicit oil trade has created a parallel market that operates outside the control of the state and the international community, threatening the stability of the region and the environment.

Oil smuggling from Libya has not only affected Libya itself, but also neighbouring countries such as Tunisia and Egypt, as parts of their territory are used as transit routes for the illegal trade. This has caused significant losses to these countries, as well as to international oil companies operating in the region. Many international companies have been hurt by the illegal oil trade in Libya, as smuggled oil is often sold at a cheaper price, undermining their operations and revenues. In addition, profits from oil smuggling have been used to finance the activities of extremist groups, harming many countries in the region.

Libya is a major transit point for migrants from conflict countries who are trying to reach Europe, leading to exploitation and abuse by criminal organisations. In 2021, the number of people leaving Libya for Europe increased by 150 % (US Department of State, n.d-b.), with many victims suffering enslavement and even death along the way.

It is estimated that there are still hundreds of thousands of migrants and refugees in Libya, many of whom are trapped in detention centres where they are subjected to horrific conditions, including torture, rape and forced labour. According to the US State Department, the Libyan coast guard allegedly collaborates with armed groups

and other criminal organisations, including smugglers, to exploit migrants for profit (US Department of State, n.d-b). The lack of law enforcement and humanitarian aid, combined with the exploitation and abuse of migrants by smugglers, armed groups and state agents, has created a humanitarian crisis that could be described as modern-day slavery. According to international sources, individuals linked to human trafficking networks are also involved in oil smuggling operations, profiting from the sale of migrant labour to oil facilities (UN News, 2018).

The increase in migration to Europe has strained resources and created political tensions among EU member states, leading to a focus on border security and limiting immigration. The EU has supported the Libyan authorities in managing their borders and developing policies to deter irregular migration. However, European policy has also been criticised for neglecting the humanitarian situation and root causes of the crisis (Salah, 2023).

The impact of the migration crisis in Libya on European security has been significant, especially in light of the current terrorism crisis in the Sahel. The power vacuum created by the instability in Libya has been exploited by various armed groups, including terrorist organisations such as Daesh and al-Qaeda. These movements have used Libya as a base for their intra- and inter-regional operations, posing a serious threat to European security and continues to pose numerous risks. In response, the EU has sought to strengthen its military presence in the Sahel, working closely with regional partners to counter the terrorist threat. Despite this, it has been questioned whether the EU's focus on security and counter-terrorism has come at the expense of addressing abuses and other human rights violations by local security forces (Freudenthal *et al.*, 2021), a criticism that is also made on the EU's stance in Libya.

The proliferation of drug trafficking in Libya is another critical issue with important implications for the country and the wider region. The lack of a unified state apparatus and the proliferation of armed groups following the uprisings that led to the collapse of the regime in 2011 have created the conditions for a web of criminal networks to flourish, connecting West Africa in general with the drug market and end-users, especially in Europe and America (Aguilera, 2022: 54).

Drug trafficking in Libya is not a new phenomenon, but its scale and scope have increased dramatically in recent decades. The country has become a hub for drug trafficking with criminal networks taking advantage of its porous borders, weak institutions and lack of law enforcement. Cocaine is often transported from its production centre in South America to Europe via Libya, and the trade generates exorbitant profits that often end up into the pockets of armed groups, clans, mercenaries and terrorist groups (Aguilera, 2022).

The production of cannabis and its derivatives in Morocco is connected to European and African markets via Libya. Indeed, Libya acts as one of the most important hubs for the regional distribution of this drug; it receives shipments both from Morocco in the west and from Lebanon in the east. The Salvador Pass, a border crossing between Algeria, Niger and Libya, serves as a transit hub for the distribution of drugs to Egypt

and Europe via the ports of Al-Khums and Tobruk. Sabha is a major trafficking point, with Benghazi, Al-Khums, Misrata, Tobruk and Tripoli serving as storage and distribution centres (Aguilera, 2022: 55; Mangan, 2020: 8; Micallef, 2019: 6).

In recent years, drug trafficking has become an important component of Libya's illicit economy, and its impact on the region has been well documented by regional and international law enforcement operations. These operations have revealed the involvement of organised criminal networks in drug trafficking, such as Operation Lionfish, which seized 17 tonnes of cannabis in Niamey, Niger, in 2021, destined for Libya and worth more than 30 million euros (INTERPOL, 2021).

According to a UN official stationed in Guinea-Bissau, as of 2013, West Africa served as a major transit route for global drug trafficking, with at least 30 tonnes of cocaine passing through the region annually. Malian drug traffickers are especially instrumental in facilitating this route (Tinti, 2020: 6). As a result, West Africa has become the fourth largest entry route for cocaine into the European continent, with approximately 50 tonnes of drugs, worth around $2 billion, passing through the region each year (Ortega, 2021).

The amount of cocaine seized in West Africa increased significantly between 2015 and 2019, with almost 13 tonnes seized in 2019, mainly in the northern, western and central regions of the continent (UNODC, 2021: 29). Colombian authorities even claimed in 2007 that more than a third of cocaine from South America passed through Africa at some point on its way to the European market, which tripled in size by the early 2010s (Blanco and De la Corte, 2013: 6).

Drug trafficking and smuggling in sub-Saharan Africa, especially in the Western Sahel, is complicated by the involvement of numerous actors with different interests and capacities. Influential political figures are often the actors of choice for organised crime due to their high level of discretion and power, and frequently implicated in drug trafficking operations in Niger, Mali and Guinea-Bissau. In the latter, high levels of corruption and clientelism have allowed traffickers to obtain institutional collaborators on the ground, be it using one-off bribes or developing a genuine symbiosis with state institutions (Aguilera, 2022: 37).

Transnational organised crime often intersects with local actors who have conflicting interests and motivations, but are keen to profit financially from drug trafficking. Ethnic groups and community leaders in the regions add an ethnic dimension to the conflict and the struggle for drug profiteering, with examples in Mali where Arab and Tuareg tribal actors cooperate despite having previously being antagonistic to one another. These complex networks operate with a high degree of secrecy, making it difficult for law enforcement agencies to gain access.

The cocaine economy has become an important source of income for terrorist groups, armed factions and criminal organisations in the Sahel. According to the United Nations Office on Drugs and Crime (UNODC), West Africa has become a major transit hub for cocaine trafficking, which has been growing dramatically in recent years (UNODC, 2023: 106). It is believed that most cocaine is destined for

European markets, as the African continent is geographically closer to South America than Europe is, and maritime and air entry controls are less stringent than those encountered in the target markets (Aguilera, 2022: 26).

Despite the difficulties in establishing the degree of linkage between the two criminal groups, the relationship between cocaine smuggling and terrorism financing in the Sahel and the Lake Chad Basin has been extensively documented by various sources. The drug has been found to be a source of income for individuals belonging to jihadist groups such as al-Qaeda in the Islamic Maghreb (Brown, 2013: 22; Raineri and Martini, 2017: 5; Zimmerer, 2019: 11), Ansar al Din, Al Murabitun or Boko Haram (Aguilera, 2022: 81-85; Sampaio, 2022: 22).

There is evidence that cocaine trafficking contributes significantly to the financing of armed groups in Sahel countries and is often one of the causes of conflict and violence (International Crisis Group, 2018). In northern Mali, control of drug trafficking has joined other inter-communal disputes, leading to increased violence and instability in the sub-region (International Crisis Group, 2018). The presence of criminal networks has led to conflicts between economic, political and ideological objectives among non-state actors and hindered the implementation of the 2015 Algiers Agreement in northern Mali (Tinti, 2020:10). The Coordination of Azawad Movements (CMA) acknowledged in an interview with International Crisis Group to have escorted a drug shipment coveted by the Arab Movement of Azawad (MAA-Platform) in 2018, which led to the Ménaka offensive between the two armed groups, highlighting the potential profits from this criminal enterprise (International Crisis Group, 2018: 15).

The impact of the cocaine trade on the security situation in the Sahel region and its link to terrorist and criminal activities is of concern to European policy makers. The illegal trade has important implications for security and stability in Libya, as it is considered a macro-structure with links to Africa, the Middle East and end distributors in Europe. In addition to drug trafficking, the Libyan conflict has created opportunities for smuggling and illicit arms trafficking, especially in the trans-Saharan region. The absence of a central authority, the desertion of security forces and the proliferation of armed groups in the country made it easier for these weapons and ammunition to be smuggled across the border, for the Gaddafi-era weapons to be recovered from large stockpiles or the battlefield or intercepting them from other actors involved in the conflict. Instability in the region has, in turn, opened up a new market for weapons, as both armed groups and the population seek to acquire the means to defend themselves or promote their interests. In 2018, the Small Arms Survey platform reckoned that Libya was the country with the most weapons in private possession, with 13.27 weapons per 100 inhabitants (Small Arms Survey, 2020). The fall of the Gaddafi regime opened up new opportunities for criminal networks, transforming the country into a hub for arms smuggling and arms sales after the leader's iron grip on a monopoly of all business related to the arms and weapons trafficking and smuggling was removed.

Trans-Saharan arms trafficking from Libya poses a serious threat to regional stability since it fuels conflicts and exacerbates existing tensions. Cross-border arms trade is also

related to the global economy in general. The demand for pistols, rifles, machine guns, grenades or ammunition in the region creates a market for arms dealers and traffickers willing to take advantage of the instability in Libya and divert stockpiles to other ongoing conflicts, such as Iraq and Syria (Conflict Armament Research, 2017: 7).

Illicit activities, including trafficking in drugs, people and arms, have a significant economic impact on the regions in which they operate. This impact goes beyond direct benefits and includes indirect economic effects, such as the market development, money laundering and corruption. These illegal markets can also lead to the destabilisation of economies and institutions, which can affect neighbouring regions. The Sahel region, in particular, is vulnerable to the spread of violent extremism due to links between illegal trade and terrorist organisations. The replication of Libya's illicit trade provides these groups of additional resources and funding, thereby posing a greater threat to Europe because they can carry out attacks beyond its borders.

4. How the Libyan conflict is fuelling terrorism in the Sahel

The replication of Libya's illicit trade poses a risk to the rest of North Africa, the Sahel and Europe. The spread of these illicit economies further destabilises already fragile economies and political systems, leading to increased violence, corruption and criminal activity. These factors are key vectors for the expansion of migration and refugee flows, as people are forced to flee their homes due to violence and economic instability.

In the Sahel in particular, Libya's illicit economiy fuels violent conflict and insecurity. The different actors involved in conflict, governance and development in Libya have different interests, motivations and capacities that influence their roles and actions in relation to illegal trade and its spillover effects. The impact of Libya's illicit economies on the Sahel region is multiple and interrelated. They include the proliferation of arms, the influx of migrants, the spread of organised crime, the erosion of state institutions, and the deterioration of security and human rights protection (Witthoft, 2020: 3). The illicit trafficking of arms and ammunition has, in fact, exacerbated violence and conflict in the Sahel, where a large market for exploitation by armed groups and criminal networks is located, and has greatly contributed to the rise of terrorist organisations and other armed groups.

The influx of migrants and refugees from Libya into the Sahel region has also increased pressure on local communities and state institutions struggling to meet basic needs and address social and economic challenges. The expansion of organised crime and corruption has similarly undermined state institutions and the rule of law, since criminal networks seek to exploit weaknesses and loopholes in government structures and security sectors (Micallef *et al.*, 2019: 52).

The erosion of these institutions has further exacerbated conflict and insecurity, as national authorities struggle to exercise their authority and provide basic services

to the population, duties in which they often fail. In turn, conflict and insecurity have exarberated the humanitarian crisis. The population is exposed to violence, displacement, poverty and human rights violations, with millions of people in need of humanitarian assistance and trapped in poverty exacerbated by the conflict.

In addition to organised crime, the Libyan conflict appears to have had far-reaching repercussions in countries such as Mali, Niger, Nigeria, Burkina Faso and Chad, because it has served as a breeding ground for the proliferation of terrorism within their borders. Numerous official testaments point to the proliferation of weapons and disintegration of Libya as a state acting as catalysts for a permissive environment for extremist groups to plan and execute attacks in the face of national authorities unable to control swathes of their national territory. In the case of Daesh, its attempt to create a caliphate in Libya in 2014 was aided by the power vacuum in the country following the overthrow of Gaddafi. It took its opportunity to occupy major cities, such as Derna and Sirte, and establish a stronghold in the country (Warner *et al.*, 2020: 20). However, its success in Libya was short-lived, as it was weakened from 2016 onwards by the numerous Libyan coalitions and operations as well as the presence of international actors on the ground. Despite its setback in Libya, Daesh has managed to project its strength into the Horn of Africa, the Sahel and the Lake Chad Basin. In Nigeria, for example, Daesh established a relationship with Boko Haram, providing the group with funding and resources in exchange for loyalty and allegiance. Until their personal rift and current confrontation, they shared space, activity and resources, such that the power of their West African branch (ISWAP) has grown at a dizzying pace and even taken over its rivals. For its part, Daesh's Western Sahel branch has achieved a degree of autonomy that culminated in the reformulation of the Islamic State in the Greater Sahara (ISGWS) into the Islamic State in the Sahel (IS-Sahel) in March 2022, a strategic move that ended its dependence on ISWAP. The group's evolution has been characterised by a series of strategic and tactical adaptations around local realities in order to maximise inter-communal vulnerabilities and tensions. It has moved from cross-border attacks against military and civilian targets in Mali and Niger to a combination of conventional insurgent-style attacks against its main rival (JNIM) and armed militias.

The spillover of violence and insecurity from Libya has affected Sahel countries such as Mali, Burkina Faso, Niger and Nigeria. There, extremist groups financed by al-Qaeda in the Islamic Maghreb (now integrated into the Support Group for Islam and Muslims (JNIM coalition) or *Boko Haram*) have been able to establish a significant presence and increase their material and financial resources through taxes paid on drug trafficking, the seizure of weapons or extortion and blackmail (Aguilera, 2022: 73). Kidnapping for ransom, a practice promoted since the beginning of the century by al-Qaeda and its precursors in Algeria and Niger, and now by Boko Haram, also forms part of this amalgam of activities where terrorism and organised crime meet.

If we frame the relationship between organised crime and terrorism in the post-international paradigm advocated by Picarelli (2006), we see how there is a multicentric scenario where both criminal groups do not find a red line that prevents them from

finding common cause and collaborating in global operations (Picarelli, 2006: 18). In this reality, where the deteriorating security landscape in West Africa following the collapse of the regime in Libya can easily be contextualised, it is easier for both criminal groups to find common cause and potential areas of collaboration. When such interactions are synchronised and systematically repeated, it becomes an opportunity to cement closer ties.

Sources consulted by the UN inter-agency assessment mission to the Sahel indicated that some of the weapons had been smuggled into the region by returnees, especially by former fighters in the ranks of the Libyan army or mercenary forces during the conflict. Some of the weapons, according to authorities briefing the mission, may have been hidden in the desert and "sold to terrorist groups such as al-Qaeda in the Islamic Maghreb, Boko Haram or other criminal organisations" (Security Council Report, 2012: 10). The same sources warned of an increase in the arms trafficking in the West African region, and indicated a growing shared space of activity between arms smuggling groups and insurgents. Despite this, some countries were able to twart attempts to divert weapons within their territories. This was the case in Niger, whose army managed to seize weapons, ammunition and explosives suspected of originating from Libyan stockpiles from returning fighters, arms dealers and AQIM terrorists. With regard to AQIM, the Niger authorities confiscated a convoy carrying 645 kg of explosives and 445 detonators that were destined for AQIM's camp in northern Mali, thereby demonstrating that the terrorist group had been acquiring weaponry from Libyan arsenals (Security Council Report, 2012: 10).

The interaction between criminal networks involved in drug and arms trafficking and terrorist groups operating in the area has become a major factor of instability and violence in the Sahel, as both have been able to mutually benefit from Libya's black market. In March 2015, nine AQIM members were arrested in northern Niger for drug and arms trafficking, the investigation revealed that they had been selling drugs in southern Libya and that the money raised (more than half a million euros) was intented for terrorism financing (Financial Action Task Force, 2016: 19). The JNIM coalition, which includes some of the terrorist groups with the most developed links to drug trafficking and the smuggling of stolen vehicles (AQIM and al-Murabitun), plays a leading role as a facilitator of smuggling in the areas under its control and as a protector of cargo in transit. In return, it receives large sums of money that contribute to the group's funding. There is also strong evidence pointing to a method employed by AQIM based on recruiting locals to transport the drug via routes between Mauritania, Mali and Algeria to Europe (Clarke, 2016: 5). Al-Shabaab is part of an arms trafficking network in Yemen and transports ammunition and weapons from Yemen to Somalia across the sea, with the aid of members of al-Qaeda in the Arabian Peninsula (AQAP). In these and many other cases, Libya plays a priviledge role as a transit point for supplies to Europe, while armed groups are able to carry out criminal activities on its territory.

Intermediary groups between organised crime and terrorism take on a variety of characteristics and natures. These range from non-profit organisations, acting as

intermediaries for local partners who divert funding and material to violent groups, to individuals and networks linked to extremist organisations that organise the purchase and delivery of illegal goods such as drugs and weapons, and facilitating inter-regional trafficking (Financial Action Task Force, 2013: 12-25). Warlords should not be excluded from the group of intermediaries between the two criminal sectors, as these individuals have greater autonomy than criminal and terrorist groups as well as insurgents and militias (Vinci, 2007: 38).

Terrorist movements with a regional or transnational presence, such as AQIM, Boko Haram and al-Shabaab, have capitalised on regional dynamics to exploit and profit from prevailing criminal activities, while seeking to increase their political influence and military and financial power in the area (Reitano, Clarke and Adal, 2017). Focusing on Daesh in both the Sahel (IS-Sahel) and the Lake Chad Basin (through ISWAP), funding becomes less evident from organised crime. In the case of its central command in Iraq and Syria, there is ample evidence of human smuggling activities. The same is true of its branch in Somalia and its Yemeni counterpart involvement of arms smuggling activities. Even in Libya, the Daesh franchise uses arms smuggling, oil and money laundering to finance its cells in the region. However, the evidence of such funding for IS-Sahel and ISWAP is sparse.

For their part, both the Daesh affiliate operating in the tri-border area between Mali, Niger and Burkina Faso and the branch near Lake Chad share a financial strategy of collecting taxes *(zakat)* to finance the recruitment of fighters. They levy a tax on the transport of goods, excavations and local resources, receive donations, carry out extortion, cattle rustling, looting, and, more recently, kidnappings for ransom to finance their operations. As for ISWAP, one of its main sources of funding and social legitimacy is taxing transporters, ranchers, fishermen and farmers on the legal market in the territory under its control, as well as rewarding traders who smuggle in contraband. However, when it comes to linking these Daesh-affiliated groups to the trafficking or smuggling of illicit goods such as drugs or weapons,[5] their use is predictably linked to the combatants' own consumption and/or profit rather than their distribution or sale (Sampaio, 2022: 22). Thus, there is no overwhelming evidence or documentation of a link between organised crime funding and the franchises based in the Western Sahel and Lake Chad Basin.

For those groups where there is sufficient evidence of links to organised crime, the evidence shows a strong link between illicit economu in Libya and the rise of terrorism in the Sahel region, with the relationship between transnational organised crime and armed groups being considered one of the most important security problems in the West African region. The proliferation of arms, drugs and other illicit goods in these regions has been identified as a key factor fuelling these security problems, with Libya at the centre of today's criminal underworld. The smuggling of arms, drugs and people

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5 Weapons smuggled across ISWAP-controlled borders are usually taxed, while almost all the weapons they use are supplied by middlemen or looted from national stockpiles during ambushes. *Source*: UNODC.

into the Sahel has created a vast black market and shadow economy, that terrorist groups have exploited to fund their organisations and consolidate their presence on trans-Saharan routes. Political instability and conflict in Libya, in turn, have created a power vacuum that has allowed this relationship of convenience between criminal enterprises and violent extremism to flourish and export instability across the region.

5. Conclusions

The political economy of illegal trade in Libya highlights the interplay between the economic, political and security dimensions of the conflict, and how illicit economies shape and are shaped by the actions and interests of the actors involved. Illegal trade has proved to be both a challenge and an opportunity for the Libyan state, which seeks to exercise a monopoly on violence yet establish corrupt practices that fuel the informal economy and criminal behaviour.

Illicit economies also pose a challenge to the peace process, as they are a source of funding and influence for armed groups and act as a vector of instability and insecurity for the state and the international community. This paper has highlighted how the various actors involved in the conflict and the peace process, as well as in activities across the region and the globe, will continue to shape and be shaped by illicit economies in Libya, as they pursue their own interests and tap into sources of wealth and influence.

Libya's current political order and the absence of a functioning central government have created a power vacuum that has allowed a number of criminal and extremist groups to emerge. The country has become a hub for the consolidation of black markets in human trafficking, arms proliferation and smuggling of oil and natural resources. These criminal activities have had far-reaching consequences: they fuel conflicts across the Sahel region and contribute to the rise of extremist groups, thereby opening up new security challenges.

The lack of a unified and effective state structure and the absence of a functioning security apparatus have facilitated the proliferation of these illicit practices, as actors with various motives and affiliations seek to exploit the power vacuum and opportunities for profit. The illicit oil trade, for example, has been an important factor in the financing of armed groups and undermining the peace process, as the actors involved seek to maintain their control over oil facilities and terminals and maximise their revenues.

In turn, the proliferation of the illicit economy in Libya has acted as a catalyst for conflict and the rise of extremism in its immediate vicinity. The Sahel has fallen victim to Libya's political history and violence. It is suffering the consequences of the trafficking of illicit goods and the informal economy, namely in the growth of armed groups and terrorist organisations funded by groups such as al-Qaeda, Daesh and Boko Haram. The challenges for the international community are numerous in this

regard, given that security threats can be relatively easily exported to other spaces. The restoration of political order in Libya is therefore more necessary than ever, which will in turn allow us to focus on those regions, such as the Sahel, that are suffering the consequences of violent extremism within their borders.

Based on the findings presented in this article, future research efforts have the opportunity to focus on developing a comprehensive understanding of the illicit economies present in Libya and their connections to transnational terrorism. This should include the development of foresight exercises to anticipate and mitigate future security threats, as well as a deeper analysis of the geopolitical relationships between the various actors on the ground in Libya. In parallel, there is a need to constantly monitor the impact of the illicit economies on the Sahel region, with a particular focus on identifying and dismantling the financial networks that support terrorist groups. This research will provide vital information to military and law enforcement agencies, enabling them to develop more effective strategies to counter the proliferation of illicit economies and the threat of terrorism in the region. Future research also has the unique opportunity to examine the possible impact of regional and global developments — such as the evolving strategies of terrorist groups or changes in the balance of power among regional actors— on the security situation in Libya and the Sahel.

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Terrorist groups as economically rational agents

Abstract

The issue of terrorism goes beyond the purely military, and therefore many of the studies on this subject have focused on the political, social or psychological aspects of the method of terrorism. Some scholars have also focused on the financial aspect, studying the sources and channels of terrorist financing or the costs of their attacks. Fever, however, have based their studies on economic theory. The possibility of analysing this issue from the point of view of economic theory, in particular microeconomics, sheds light on the decision-making process of terrorist groups, and opens up transcendental lines of research for the design of more effective counter terrorism policies.

Keywords

Terrorism financing, Efficiency-security Trade-off, Terrorist groups, Rationality, Microeconomics.

Cite this article:

1. Introduction

Terrorist groups are often described as irrational because of the insanity of their practices, their extreme nature, or the shocking nature of their attacks. Their lack of humanity leads us to believe that their actions are motivated by cognitive biases, intense emotions or distorted beliefs.

Rationality, however, does not imply an ethical evaluation of actions. What makes an agent rational is his ability to make use of logical reasoning, so that, before acting, he has evaluated the costs and benefits of each possible alternative, thus being able to make decisions that are aligned with his preferences and of maximum utility (Guerra Picamill, 2021: 34).

Based on this economic concept of rationality, this article assumes that groups are rational agents. Based on decision theory, the core of which is the principle of rationality, it would be sufficient to know the objectives of the terrorist group in question and to identify its constraints, in order to determine what action would be most beneficial to the group, since according to this theory, terrorist groups will act rationally and consistently with regard to what they are pursuing. (McCormick, 2003: 482).

While not as simple as this, studying the problem of terrorism from this perspective provides valuable and interesting lessons. Thus, this article presents an approach to decision-making in terrorist groups and presents concrete cases showing how some of the most influential terrorist groups of recent decades have acted rationally.

Despite the relevance of this article´s theoretical approach, it should be noted that it is not the one and only solution to terrorism. Rationality theory is by no means exclusive of other lines of research. On the contrary, the study of terrorist decisions through this microeconomic perspective adds one more piece to the great puzzle of understanding this phenomenon, but (Herreros Vázquez, 2008: 175-176) it cannot and does not claim to solve it in its entirety, as it requires a perspective from various angles.

2. Economic rationality, decision-making and the terrorist's dilemma

According to Anderton and Carter (2009: 28), the economic analysis of any conflict is based on one or both of the principles of *equilibrium* and *rationality*. Equilibrium refers to how the choices of different actors fit together, and is embodied in the economic model of supply and demand. Rationality, on the other hand, refers to the way in which actors make decisions, consciously choosing from among all possible alternatives.

This principle of rationality is at the core of decision theory and rational choice theory, theories that argue that actors face uncertainty when making decisions and that, in the process, they face trade-offs between different possible options. These theories constitute the frame of reference of the article, and this knowledge constitutes a

powerful tool for understanding the functioning of terrorist groups and, consequently, an equally powerful tool for trying to combat them. (Herreros Vázquez, 2008: 175-176).

As mentioned above, rational agents are those who make decisions by weighing the costs and probabilities of success of different outcomes and choosing the option that maximises their utility, consistent with their preferences and given their constraints.. And terrorist groups, contrary to what we might believe, behave in line with this rational behaviour. On this issue, research by McCormick (2003), Ahmed (2018) and Shapiro (2013) provides a good framework for understanding rationality and decision-making in terrorist groups.

In his article, McCormick (2003) argues that the decisions made by terrorist groups take into account various factors such as the desired political impact, the probability of success of an attack, their exposure to risk (security), the human and financial resources available or the internal security of the organisation.

In the exercise of their rational capacity and during the decision-making process, terrorist groups evaluate the costs and benefits associated with each option. Following this assessment, they will select the one they consider to be the most effective among all the possible ways of approaching their objectives. This relationship between ends and means is called instrumental rationality, and focuses on the strategic effectiveness of their actions. In this sense, while all terrorist groups can be assumed to act rationally, decisions are not the same for all groups, but depend on their specific ideological preferences. Ad s result, the cost-benefit analysis for each group is different and, consequently, so are the type and quantity of attacks.

This relationship between ideology and terrorist targets has been the subject of much research. (Hoffman, 1995; de la Calle y Sánchez-Cuenca, 2006; Ezell, Behr y Collins, 2012; LaFree *et al.*, 2012; Ahmed, 2018; Gill *et al.*, 2018; Polo, 2019; Sierra, 2021). Targeting is a strategic decision (LaFree *et al.*, 2012: 27), as terrorist attacks are a communication tool aimed at conveying a message and influencing the target audience, (Bordas Martínez, 2006: 103; Polo, 2019: 3). To this end, some authors distinguish between two types of terrorist organisations. On the one hand, those that see terrorism as an investment, and on the other, groups that see terrorism as a "business" or a way of life (Crenshaw, 1995: 602-603; Sánchez de Rojas Díaz, 2016: 7).

Terrorism as an investment is practised by groups that, through threat, violence and provocation, seek to impose their ideology on the established order. This would be the most accepted concept of terrorism, and also the closest to intrastate terrorism. By their actions they seek to expose the weaknesses of the government they wish to overthrow. Terrorism is thus considered as a stage or means, so that terrorist groups that fit this definition will be willing to abandon the terrorist method once they have brought about the desired change. (Crenshaw, 1995: 601-602). That is to say, when the "investment" in terrorism has borne fruit (Esteve Mora, 2012), which consists of achieving a political goal (Asua Batarrita, 2002: 4). Professor Julio Bordas has stated: "if in the face of a terrorist action a disproportionate reaction is generated [...], a reaction is derived which can gradually achieve the legitimacy that, in principle, (the terrorist group) did not have". (Bordas Martínez, 2006:100).

If, on the other hand, the achievement of the final objective takes a long time, the terrorist group may evolve beyond the ideological. Groups that consider terrorism as a business go through a process of political devolution, losing any ideological orientation, and becoming primarily a business of crime, terror and barbarism. (Vargas Rincón, 2008: 414). Terrorism thus moves from being a method to becoming an end in itself, with no provision for abandoning violence (Sánchez de Rojas Díaz, 2016: 8; Shaw y Mahadevan, 2018: 3).

If terrorist attacks are a means of communicating a message, the group will have to plan strategically according to its objective. In other words, it will have to make use of its instrumental rationality: to choose the best means (attack) for its end. In this respect, there is a fundamental difference between nationalist terrorist groups and religious terrorist groups.

In the case of nationalist terrorist groups, the choice of targets is crucial, as public opinion and the support of their sympathisers are crucial constraints. (de la Calle and Sánchez-Cuenca, 2006; Sánchez-Cuenca, 2007). The problem with the choice of their targets is that nationalism and terrorism share the same legitimacy assumptions, both in terms of the violence they use and the assumptions they pursue, which are often ethnic or political in nature. As a result, they find it necessary to justify the victims of their attacks. Otherwise, they may be alienated from their goal or reduce their recruitment base through a potential lack of sympathisers to join the cause:

> "In order to gain support [...] they (terrorist groups) have to limit offensive capabilities and, consequently, their tactics [...] will not be as violent as they could be. In such circumstances, the more indiscriminate the attacks, the greater the pressure on the state, but the less popular the support. And the more isolated the terrorist organisation is, the less threatening the armed struggle is to the state (Sánchez-Cuenca, 2007: 301)".

However, while ideology influences targeting by providing the frame of reference and "moral" grounds, terrorist attacks are ultimately constrained by their operational capability. (Ahmed, 2018: 380). Financial resources, human resources, the availability of weapons and materials, the logistical capacity of the terrorist group and the training of members in, for example, combat or bomb-making, as well as pressure from security forces, are operational constraints that can limit the quality, frequency or impact of attacks.

In this respect, it is illustrative to liken terrorist groups to *sui generis* enterprises (Cramer, 2010: 10). Although the activities and objectives of companies and terrorist groups are different, there are certain similarities in the ways they operate and in their economic behaviour.

Firstly, both terrorist groups and companies need funding to be able to operate, and each uses different strategies to obtain financial, human or material resources. Secondly, both need manage these human and logistical resources in order to carry out their activities. And thirdly, both companies and terrorist groups need to plan and execute actions to achieve their objectives, for which both base their operations on tactical

and strategic decision-making. In other words, they both have specific objectives and use limited resources to achieve them, so they need to use their instrumental rationality while taking into account the constraints they may face (Bonome, 2009: 16-17; Shapiro, 2013: 20).
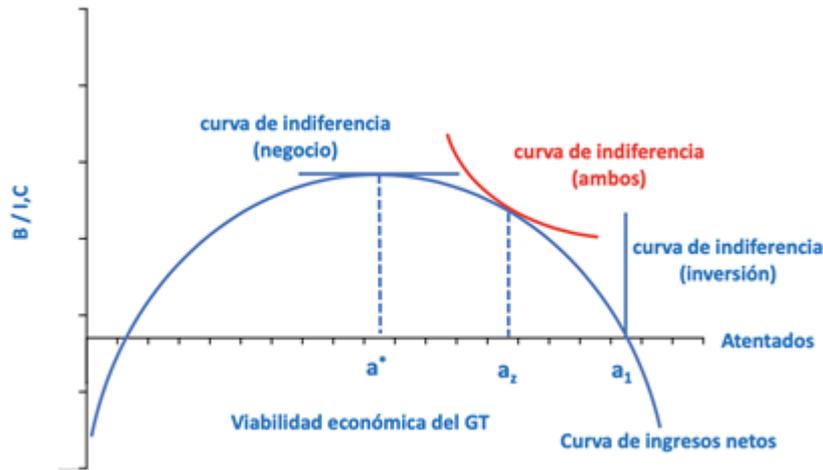
Graph 1. Number of attacks by type of terrorist group. Author's own elaboration, adapted from (Anderton y Carter, 2009).

However, there is a one particular constraint that differentiates terrorist groups from companies: the need to hide. The need to remain clandestine is the greatest constraint on terrorist operations, making it a fundamental factor in rational decision-making (Morselli, Giguère and Petit, 2007). The problem for terrorist groups is that actions aimed at increasing security usually reduce efficiency, and those aimed at increasing efficiency often compromise security.

This tension between the goals of influence (or efficiency, in business terms) and minimum security requirements is what some have called the efficiency-security trade-off or "terrorist's dilemma" (McCormick, 2003: 496; Morselli, Giguère and Petit, 2007; Kilberg, 2011; Shapiro, 2013).

This "terrorist dilemma" is the quandary that terrorist groups constantly face in balancing, on tone hand, the need to carry out attacks to achieve their political goals (influence) and the need to ensure the survival of the group and avoid capture by the security forces on the other. It is a trade-off because terrorist groups must identify the amount of resources needed to invest in security, while at the same time investing in actions aimed at increasing their influence (de la Calle and Sánchez-Cuenca, 2007: 6).

For a deeper understanding of this dilemma, and thus of the behaviour of terrorist groups, it is useful to break down the elements involved, which constitute the pillars of terrorist action: control of violence, management of resources or operational capacity, and security (Ahmed, 2018; Merlos Garcia, 2006; Shapiro, 2013). The elements of violence control and resource management make up the efficiency side, while on the other side of the dilemma is the security pillar (Merlos Garcia, 2006; Shapiro, 2013). The success of the terrorist group will only be achieved if it acts according to the principle of economic rationality.

This relationship leads to the conclusion that the performance of terrorist groups is not based on simple, arbitrary decisions. It is a complex process. involving not only goals and ideology, but also operational capacity and the need to maintain an appropriate balance between security and efficiency. Terrorist groups must therefore carefully weigh each of their decisions and constantly adjust to shocks in order to remain safe and operational. Otherwise, they will succumb.

A large part of their survival, therefore, is their ability to adapt to these changes. In this sense, according to (McCormick, 2003: 498), changes in their tactical trajectory will depend on their ability to identify changes and threats in the environment, their adaptive rationality, and their precision and accuracy in implementing instrumental rationality.

This idea of adaptive rationality that McCormick (2003) talks about refers to the incorporation of information from the past into current decisions. The term has its origins in the rational expectation theories of Muth and Nobel prizewinner in economics, Robert Lucas. These theories suggest that, in contexts of uncertainty, agents make use of all available information to update their expectations and, based on these, define their behaviour accordingly. Knowing this, what McCormick (2003: 498) suggest that in order for terrorist groups to achieve their goals and to remain operational and ensure their survival, they must learn from the past in dealing with the changes and threats they face (Ezell, Behr y Collins, 2012: 2; Ahmed, 2018: 380).

3. Adaptive rationality and instrumental rationality: real adjustments in terrorist groups

To echo McCormick (2003), terrorist groups decision-making is a dynamic and iterative process in which they constantly establishing preferences, identifying the strategic environment, assessing the range of possible options that fit their operational capacity, and evaluate the costs and benefits associated with each of these options. In other words, the life of a terrorist group consists of constantly adapting to its environment according to its possibilities. And to do so, they must be able to make decisions that improve their situation based on their adaptive rationality and instrumental rationality. They must avoid detection, increase their influence, or both.

3.1. Security-focused decisions in terrorist groups

First, we find concrete cases where terrorist groups have systematically applied lessons learned to maintain their security. The case of ETA (Euskadi Ta Askatasuna) is a clear example of this adaptive rationality. After *kantadas* or "blunders" of its fighters, the detained members drew up a kind of report detailing the conditions under which they had been captured. In this report, they pointed out where they may have failed and what information had been given to the police. This allowed ETA to determine

where it stood, where its security was compromised, and which members were in danger, thus serving as a tool to prevent future failures (Domínguez, 2008: 2).

Second, terrorist groups may adopt more extreme security measures. In this sense, we find changes in organisational structure (Arquilla and Ronfeldt, 2001). McMillan, Felmlee and Braines (2019) conducted a longitudinal study of eleven Islamic terrorist groups on how the need for security influences the structures adopted by terrorist groups. The results of their study concluded that the study sample circumvented the efficiency-security dilemma by moving towards centralisation (McMillan, Felmlee and Braines, 2019: 574). However, the article brought together previous research that suggests that the organisational structures that most benefit security are decentralised. McCormick (2003) also agrees with them: "when it comes to security, smaller is better" (McCormick, 2003: 496).

The hierarchical structure not only makes the terrorist group vulnerable, but also amplifies the consequences of an arrest. This reinforcing effect can be observed in two ways. Firstly, the link between members of an organisation can be strenghtened when one member is captured, because when one member is arrested, counterterrorism forces will try to identify the person connected to him all the way to the top, and may even decapitate the organisation (Kilberg, 2011: 26). Secondly, such structures are often accompanied by an orderly bureaucracy which, if intercepted, reveals information that makes the group more predictable and therefore easier to detect by anti-terrorist forces, as was the case with ETA's Susper papers, which led to 103 arrests.[1]

In this sense, the final years of the Provisional IRA (Irish Republican Army), its members sought to increase secrecy and security by replacing a standard military structure with a decentralised organisation of cells (Hannigan, 1985: 32). However, perhaps the most obvious case of a terrorist group changing its structure to increase its security is that of al-Qaeda after 9/11.

The counterterrorism efforts that sought to take down al-Qaeda resulted in the decentralisation of the group and the creation of its "franchise", (Bourekba, 2021: 2) resulting in what Hoffman (2004: 551) calls the terrorism-counter-terrorism conundrum. This conundrum refers to the situation where security forces improve their measures, forcing terrorist groups to adapt to the new environment and adopt structures that allow them to circumvent the conditions that make their operating environment less favourable to their survival (Hoffman, 2004: 551). "Perhaps al-Qaeda's greatest achievement has been the change in the image it has given itself. [...] It has gone from being a more or less unitary and almost bureaucratic entity to something more like an ideology [...], it has gone from being an entity that [...] could be destroyed [...] to a less tangible transnational movement" (Hoffman, 2004: 552).

This " strategic evolution of jihadist terrorism" (Calvente Moreno, 2022: 306) has had implications beyond its decentralisation into various franchises. Its transformation

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1 The Susper papers contained all ETA information in encrypted form: design of operations, safe havens, register of members and reserves, plans, decisions taken, structural modifications, etc.

has brought with it challenges that had to be addressed to meet its desire for influence while trying to maintain its security. Consequently, its greatest challenge became to ensure its longevity, for which it needed to perpetrate new attacks to "maintain its relevance as a force in international politics and to increase its power of coercion and intimidation" (Hoffman, 2004: 551). In this way, the franchises that were created (al-Qaeda in the Arabian Peninsula, al-Qaeda in the Islamic Maghreb, Jemaah Islamiya, etc.) serve local interests as well as their own, and because of their territorial spread, gives the movement a sense of omnipresence, which reinforces its message of terror (Calvente Moreno, 2022: 305; Khan, Ullah Khan and Auf, 2022: 1901).

While al-Qaeda's decentralisation was a reaction to the threat to its security, it has had a positive (indirect) impact on its efficiency. This suggests that decisions made to prioritise one side of the terrorist dilemma do not preclude indirect improvements on the other side, even though they maintain, as a general rule, an inverse relationship (McCormick, 2003).

3.2. Decisions on changing targets and strategy in terrorist groups

Among the current terrorist groups that have taken the decision to significantly change their modus operandi because of the security/efficiency dilemma is Daesh (or Islamic State). Initially, the group's strategy was to conquer the territory in Syria and Iraq in order to establish a caliphate. However, as the conflict progressed and its presence in the region was relatively weakened by military pressure, Daesh adapted its strategy and tactics to the new situation.

The loss of territory and the intensification of counter-terrorism measures led the group to favour soft targets. The choice of less defended targets allows greater tactical freedom and room for manoeuvre, making it more difficult for security forces to anticipate, as well as generating a high impact. In this way, the jihadist group has been able to achieve both security and efficiency. Moreover, this change gives terrorist groups a wide range of possible targets, which has allowed Daesh to maintain its operational capacity and operate in a wide variety of settings such as concerts, stadia, stations or restaurants (Hoffman, 2004: 551; Europol, 2016: 8), resulting in mass civilian casualties.

Thus, the change in *modus operandi* or targeting of the jihadi terrorist group is a response to greater pressure on their security, due to the terrorism-counterterrorism dilemma (Hoffman, 2004), and is therefore the result of their adaptive rationality. For nationalist terrorist groups, however, it seems to be more of the combination of their adaptive rationality and instrumental rationality. This thesis brings us back to the differences between terrorist groups that consider terrorism as a business and those that consider it as an investment and the control of violence, one of the elements of the terrorist dilemma. The most paradigmatic examples of this type of terrorism in recent decades are the Provisional IRA and ETA.

The Basque and Irish cases went through what Sierra (2021) has called the "socialisation of suffering", whereby any citizen became a target of their attacks. In this sense, both faced problems of efficiency since this loss of legitimacy reduced the power of influence over the target audience, which meant that the terrorist group's relative power *vis-à-vis* the state diminished (Sánchez-Cuenca, 2007: 301).

In the case of ETA, the indiscriminate attacks led" to a greater distance between the use of violence and the social base of Basque nationalism" (Sierra, 2021: 13). In this regard, the study by Sánchez Cuenca (2007: 301), in which he shows how the electoral support of Herri Batasuna, ETA's political wing, increased when ETA announced a ceasefire. This rejection by society of various terrorist groups due to the lack of justification for their actions has been observed both in ETA and the IRA (Hannigan, 1985: 32; de la Calle y Sánchez-Cuenca, 2006: 6; Shapiro, 2008: 8) and FARC [Revolutionary Armed Forces of Colombia]:

During the 1992-2002 period things changed, mainly due to the decline in kidnappings. This source of financing faced growing problems of legitimacy in Basque society which, from the beginning of the 1990s, tolerated less and less the suffering they caused, to the point that, from 1993," [...] a specific campaign of rejection grew [...] and one of its consequences was that ETA stopped kidnapping in 1994 and 1995" (Buesa Blanco, 2016: 35 - 36).

The delegitimisation of kidnapping in Colombian society since the late 1990s resulted in a drastic reduction of kidnappings by FARC(Buesa Blanco, 2016: 41).

Recognising that violence was limiting their ability to achieve their goals and that public disapproval threatened their long-term viability, both the IRA and ETA navigated the terrorist dilemma by leaning towards efficiency, which allowed them to put more pressure on the state. (Sánchez-Cuenca, 2007: 298; 301). In this sense, they both changed their objectives and strategy.

In both cases there was an initial phase characterised by a rapid increase in fatalities, reaching a peak, which was followed by a second phase of sudden decline (Sánchez-Cuenca, 2007: 297). This phase of decline was accompanied by a qualitative leap towards the so-called *hard targets* and a diversification of their strategy combining violent action with participation at the ballot box. Thus, Sinn Féin (IRA) and Herri Batasuna (ETA) came to the fore, a strategy that researchers of the Irish conflict have dubbed the "Armalite and Ballot Box strategy". (Hannigan, 1985; McAllister, 2004).

This combination of terrorism and political participation is an example of a an efficiency measure, the result of instrumental rationality, i.e., the choice of the method most likely to achieve the terrorist group´s objective (McAllister, 2004: 140). Moreover, it was a particularly successful strategy for the IRA, because the fictitious separation between the IRA and Sinn Féin allowed for negotiations with a government that refused to negotiate with terrorists, and (McAllister, 2004: 141) Sinn Féin played a crucial role in the Good Friday Agreement.

3.3. *Decisions on funding sources*

In addition to the importance of financing for terrorist groups as it gives such groups (though less so for lone wolves) the ability to acquire material, plan attacks or recruit personnel, those groups pay particular attention to their financial decisions since global counter-terrorism units focus on financing. UN Security Council Resolution 1373, the US Patriot Act, the creation of terrorist and terrorist group lists, increased international cooperation in sharing intelligence and financial information, as well as the strengthening of international sanctions against countries suspected of sponsoring terrorism are some examples of the importance of this issue.

As with all other decisions, the balance between efficiency and security that is the focus of this articles is present in the financial decisions of terrorist groups. Terrorist groups make decisions about their sources of funding, and seek to maximise benefits at minimum cost to ensure the economic viability of their operations, while seeking to minimise risk, as this would increase the cost of security. Therefore, in order to finance their activities, terrorist groups carefully weigh their financial choices in terms of raising and mobilising resources.

In choosing funding channels, such groups will evaluate different alternatives[2] according to parameters such as risk, transfer speed, volume of funds, simplicity of the channel or associated costs (Wittig, 2011: 9; Freeman and Ruehsen, 2013: 6), as they try to balance efficiency and security.

In terms of sources, terrorist groups, like legitimite businesses operate with a diversified financial structure, that allows them to minimise the risks of detection, adapt to changes in their environment and enjoy a certain degree of financial autonomy. However, unlike companies, they rely on both legal and illegal sources (Shelley, 2020: 7). The choice of illegal sources may come as a surprise, but it is precisely a strategy that responds to both instrumental and adaptive rationality.

As a result of their instrumental rationality, terrorist groups choose those sources of funding that, out of all possible sources, that will provide them the greatest amount of resources at the lowest possible cost. In their dilemma between efficiency and security, and after assessing the costs and benefits of each of the possible sources of funding, they will choose those that can maximise profits at minimum cost to ensure the economic viability of their violent activities. At the same time, they will also look for sources that present the lowest risk of detection, even if this reduces effectiveness.

In this balance between security and efficiency, extortion, kidnapping, drug trafficking, arms smuggling, human trafficking, art theft, robbery and credit card fraud (Azcona Pastor, Re and Azpiazu, 2011: 241; McMillan, Felmlee and Braines,

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2   Some alternatives are the physical transport of money, creation of shell companies, introduction into the banking system, parallel financial systems, such as *hawala* networks, etc.

2019: 560; Brady *et al.*, 2022: 71-92) are attractive sources of income for terrorist groups. Although potentially costly, these channels are subject to little or no regulation or control, allowing them to evade detection by financial authorities and maintain a low profile. In addition, they are often more profitable than legal channels that have their own associated risk (Ogueri Ibekwe, 2022: 64). Another reason why funding through illegal channels is attractive to terrorist groups is the availability of funding that would not be possible legally, such as state sponsorship (Passas and Giménez-Salinas Framis, 2007: 3; Sanchez Medero, 2008: 51; Levi, 2010: 654; Buesa Blanco, 2016: 4).

However, the cost-benefit calculation of terrorist financing decisions is complicated. While illicit sources are attractive, their classification as illegal further increases the costs since, regardless of whether they end up financing terrorism, these sources constitute a criminal offence, so that, if detected, the offence would be double. Just as Masciandaro (2007) has stated: as in any illegal financial activity, the financing of terrorist groups is subject to a "special category of transaction costs", which are due to the fact that "the increase in relative income increases the chances of the crime being discovered and, therefore, of incrimination" (Masciandaro, 2007: 1; 4). Moreover, nationalist terrorist groups face potential legitimacy problems if they choose to finance themselves through a revolutionary tax or ransom money.

Masciandaro (2007) argues that terrorist groups face significant costs such as the cost of negotiating with suppliers or the cost of information to ensure that funding sources are reliable. Despite these, the choice of illegal sources remains a rational and effective strategy, as they are less traceable compared to legal sources and provide flexibility to terrorist groups. Because of the same need to reduce security costs, terrorist groups also resort to other forms of financing such as cryptocurrencies and crowdfunding platforms on the Internet (FATF, 2015: 15), which facilitate anonymity.

On the other hand, illegal financing as a result of their adaptive rationality is explained by the fact that terrorist groups modify their behaviour when there is legislation that affects their efficiency or security (LaFree *et al.*, 2012: 10). In this context, some of the barriers to the legal financing by terrorist groups is due to the tightening of financial regulations and due diligence measures in the financial sector. While necessary to prevent terrorist financing, it creates a dilemma for financial institutions as terrorist groups tend to finance themselves illegally because due diligence measures increase security costs. This drives terrorist groups to seek new forms of funding to enable them to continue planning and operating underground.

This constant adaptation of terrorist groups is a direct indication that they are rethinking the current system for combating the financing of terrorism. While this approach has been remarkably successful in preventing terrorism, it faces limitations and challenges in its implementation and results, mainly due to a lack of international cooperation and technical and legal constraints.

4. Conclusions

Over the preceding pages, it has been shown that there are many elements at play in the decisions of terrorist groups, most of which can be influenced. In this sense, the relevance of the approach based on both adaptive and instrumental rationality for the study of terrorism lies in the verification that the decisions taken by terrorist groups are not arbitrary, but are the result of a careful calculation between the costs and benefits of each possible action. However, almost all counter-terrorism measures focus on combating its financing. This system, while effective, it faces significant implementation problems and limitations, that make it insufficient.

For this reason, the clues provided by the study of terrorist groups through decision theory and rationality are useful to complement this system, in combination with the contributions of other disciplines such as psychology, sociology and politics. Through the analysis of three types of measures favouring either security or efficiency, or even both, we have analysed how some of the most influential terrorist groups in recent decades have managed the efficiency and security trade-off, while taking into account other ideological, operational or logistical constraints.

The last type of decision analysed was the financial one, i.e the decision of terrorist groups to finance themselves from illegal sources. It can be concluded that this decision responds to both an instrumental and an adaptive strategy, given the current finantial constraints faced by terrorist groups. After this analysis, and with the above case studies, it is clear that the current counterterrorism framework, which focuses primarily on the financing of these groups, is insufficient.

In this sense, the analysis of the terrorist dilemma leads directly to a dual strategy that maintains the efforts to financially incapacitate terrorist groups, while trying to influence those elements that can be influenced and pressured, given that terrorist group, as rational actors, act based on security measures.

By studying the phenomenon of terrorism through rationality, we have been able to derive patterns about its vulnerabilities and weaknesses, and come closer to a better understanding of the logic behind its functioning, which allows us to predict its behaviour to a certain extent. Thus, it is known that the current trend among jihadist terrorist groups is towards so-called soft targets, because this benefits both their efficiency and security. In other words, even when weighing the benefits of the illegal route against the probability and cost of being arrested, they continue to carry out attacks. This indicates that the costs are not high enough. Therefore, it is not so much a question of increasing the quantity of measures, but rather the quality or effectiveness of these measures, focusing on those points that are susceptible to influence.

This dual strategy therefore consists of using a credible threat to increase the legal costs of engaging in the crime of terrorism financing, or the diplomatic costs if the target is a state. Since the outcome of the cost-benefit calculation is different for each group depending on its circumstances, the cost will vary from case to case.

Despite such variation, it is precisely because all groups behave rationally and react to changes in their security environment that this strategy is considered a deterrent.

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The Security Council in peacebuilding in failed states, a doctrinal discussion

Abstract

The UN Security Council is the body responsible for the maintenance of international peace and security, and is the only body that can adopt resolutions that are binding on UN member states. In this article, we will analyse the role of this body in the so-called "peacebuilding process", which is understood as post-war peacebuilding in so-called "failed" or "collapsed" states. To this end, we will look at some notable theories such as Michael Ignatieff's theory of the lesser evil, or William Zartman and Cynthia Arnson's theory of necessity, greed and creed, and we will analyse the doctrinal evolution of this type of state and the elements that should be taken into account when establishing a discussion on peacebuilding in these areas within the framework of the United Nations Security Council.

Keywords

Cite this article:

1. Introduction

Peacebuilding is a crucial process for achieving stability and sustainable development in any country affected by armed conflict. However, the concept of peacebuilding is widely debated and, according to the International Peace Institute (IPI), it can be understood in two senses: a negative one referring to the absence of war, or a positive one, encompassing goals such as the repair of social and political structures, with a focus on reconciliation (International Peace Institute, 2009: 4). The United Nations Security Council (UNSC) plays a fundamental role in promoting international peace and security. However, the legitimacy, credibility and effectiveness of this body has been increasingly called into question as events have unfolded and the UN proved ineffective in the face of several of them.

The aim of this article is to shed light on the actions of the UNSC, the main UN body charged with maintaining international peace and security, particularly in "failed" or "collapsing states". This article will show how the Security Council has evolved from the post-Cold War period until the war in Ukraine. One of the aims of this paper is to show how different authors have addressed the issue of failed states and their integration into the international security agenda at the hands of the United States, and how they have studied the peacebuilding process in such territories, with Africa as the main field of study.

The methodology of the work is based on studying, chronologically since the 1990s, the action (or inaction) of the United Nations, through the UNSC, in the different historical events that have taken place and involving armed conflicts necessitating an international response. This first section will examine how different authors have dealt with the issue of failed and collapsing states and how these concepts have been integrated into the international security agenda since 9/11 in the context of the "war on terror".

The second section will attempt to examine how different authors, in a different chronology, have tried to study the phenomenon of failed and collapsing states with a focus on the African continent. From their main contributions, we will highlight the most important elements to be taken into consideration when discussing the peacebuilding process.

The third section will look at the UNSC as a body and its main limitations in asserting its position as the body responsible for maintaining international peace and security. In the course of this paper, we will link and contextualise the authors, texts and main contributions so as to understand what the theory of this peacebuilding process has been. This section is closely related to the fourth, as we will briefly consider what the current war in Ukraine has meant for the UNSC in its quest to be the ideal peacebuilding body.

Finally, the fifth section will be aimed at reviewing the very concept of peacebuilding and extracting from certain authors some key ideas for a correct understanding of the

term and, at the same time, to know in general terms what is the current theory on this process.

## 2. Failed states and early signs of ineffectiveness

The concept of a failed state is widely used in the literature. Gerald B. Helman and Steven R. Ratner in 1992 conceived it as a state that is "totally incapable of sustaining itself as a member of the international community" (Helman and Ratner, 1992: 3), and the need to "save" these failed states lies not so much in protecting the people living within these territories, but in "containing" the spread of lawlessness and chaos in these regions, which are usually countries usually in sub-Saharan Africa or, at the time of the authors´ writing (1992-93), the Balkans and parts of Southeast Asia.

These authors, in fact, placed the origin of this phenomenon on the post-Second World War decolonisation process and the excessive permissibility given to the principle of self-determination of peoples at that time. In the authors' words, "Self-determination, in fact, was given more attention than long-term survivability" (Helman and Ratner, 1992: 4). This "balkanisation" of the international community, was accordingly to the authors not sustainable in the long term, as a country's survival was threatened once they became "useless" after the end of the Cold War and the dissolution of the Soviet Union in 1991. It is no coincidence that the 1990s was one of the most unstable periods in the history of the second half of the 20th century. These states were able to survive on the support provided to them by either the capitalist bloc or communist bloc as the rival superpowers tried to contain one another and extend their own spheres of influence. From this perspective, the authors already warned of the structural deficiencies of these independent states, such as corruption, weak institutions and a backward economy.

It was at this time, 1992-93, that the then UN Secretary General Boutros-Ghali used the concept of "post-conflict peace-building". He expanded on it and integrated different phases of post-conflict action: the reconstruction of institutions and infrastructure, and the creation of peaceful ties of mutual benefit between the different nations. In short, the concept of "post-conflict peace-building" should refer to all those actions aimed at preventing a conflict that has ended from recurring in a given area (Boutros-Ghali, 1992: 8). In this regard, the former Secretary-General expressed the UN Charter's recognition of the UNSC having a leading role in matters related to the maintenance of international peace and security, but also expressed the importance of other bodies, including the General Assembly (UNGA) in matters of a similar nature and to the extent of their respective competences.

The 1990s saw numerous intra-state conflicts, i.e. internal conflicts, many of which took an international (Gulf War) or regional (Sierra Leone) dimension. In essence, these internal conflicts had consequences for the rest of the international community. The role of the United Nations in managing these developments has often been described as a failure, as exemplified by authors such as David Cortright and George A. Lopez (2000), Michael L. Cornell (2000) and Adam LeBor (2008). Indeed, the results were

truly striking and, as a result, the concept of the "Responsibility to Protect" (R2P) was given impetus at the 2005 World Summit as a means to remedy the failure of the previous decade. Under this concept, if a state is unwilling or unable to protect its population from the most heinous crimes against humanity —genocide, war crimes, crimes against humanity and ethnic cleansing— it is the duty of the international community to act and intervene to put an end to these crimes (United Nations, 2005). This reinforces the idea that state sovereignty is not limitless, and especially not in the case of certain events that gravely violate the peremptory norms of international law. In this regard, it is worth noting that Article 4.h) of the Constitutive Act of the African Union of 2000 establishes "the right of the Union to intervene in a Member State pursuant to a decision by the Assembly in respect of grave circumstances, namely: ... genocide...." (Constitutive Act of the African Union, 2000).

Some of the most notable failures were Somalia, now in chaos, Iraq, with the controversial intervention in 2003, the former Yugoslavia and Kosovo with such notorious events as the Srebrenica massacre and NATO's intervention, and finally the Rwandan genocide of 1994. Indeed, during the 1990s, it was not the United Nations that was most success in peacekeeping operations, but the Economic Community of West African States (ECOWAS) which acted efficiently to stabilise the situation in Liberia and Sierra Leone (Ruys *et al.*, 2018: 442; Cook, 2003: 3). The UNSC during this decade was indeed active, albeit unsuccessful in hindsight. As this graph from "*The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions*" by Patrik Johansson shows, the number of resolutions adopted under Chapter VII of the UN Charter increased significantly, but the results were not good and, moreover, there were occasions when actions were taken without the mandatory authorisation of this body, as in the case of Kosovo (Ruys *et al.*, 2018: 597).
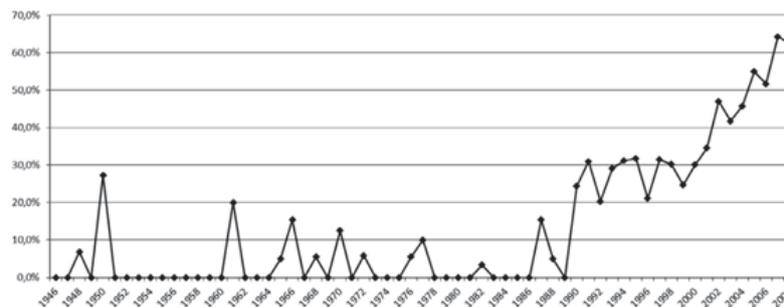
Graph 1. Chapter VII resolutions as a percentage of all Security Council resolutions by year, 1946-2008 (Johansson, 2009: 16).

At the beginning of the 21st century, on September 11 a series of terrorist attacks took place on US soil, which sent shockwaves through most of the States in the international community, especially the United States. The "appearance" of a new enemy, with characteristics completely different from those of a traditional enemy, meant that the strategy to be followed by the American giant had to be redefined. Thus, the Bush administration declared a "war on terror" and elaborated an unprecedented National Security Strategy, with concepts such as pre-emptive war, and the inclusion of failed states into the international security agenda.

With the discourse of the "war on terror", failed states became part of the international security agenda; posing a threat to international security and peace by providing a safe haven and expansion for terrorist groups (Mateos Martín, 2019: 55). Since they could not directly confront the problem (terrorist groups), lacking a unique structure and territorial base, the aim was to attack all those states that were harbouring such disruptive groups within their borders. The National Security Strategy attributed to these "failed" states certain characteristics, such as corruption, weak institutions and poverty, which made them easy prey for terrorist networks.

All the events of the 1990s, along with 9/11, crystallised a serious concern of political scientist Christopher Clapham which he expounded on in his 2002 article "The Challenge to the State in a Globalised World". In this article, the author sought to integrate the concept of failed and collapsing states into a more general context: the evolution of statehood. This is how the author put it in several fragments: "Individual instances of state failure and collapse must be placed within a broader appreciation of the evolution of statehood within the international system" (Clapham, 2002: 775); and "Yet there were good reasons why much of the world had not previously possessed states" (Clapham, 2002: 778). As we will see in the next section, Africa was and is the field of study par excellence for dealing with the issue of failed states, and Clapham was no stranger to this fact: "In much of Africa —to revert to a part of the world with especially challenging problems of state formation —the historic weakness or absence of states has been compensated for through the development of other mechanisms for assuring human welfare on the one hand, and social control on the other" (Clapham, 2002: 778-779).

Perhaps the 1990s was one of the first signs of the failure of the state model in several regions of the world, particularly in Africa as a consequence of the decolonisation process. How would this translate into the peacebuilding process? As we shall see, among the proposals for reform of the UNSC reform, in addition to the abolition of the right of veto (which is not very plausible), is the proposal to respect the principle of geographical equiality in the composition of the UNSC. When the UNSC was inaugurated in 1945, the number of states in the international community was small compared to today. Undoubtedly, the process of decolonisation led to a significant increase in the number of states and thus of peoples under their protection. In the coming years, population growth in Africa will be exponential, and if we take into account that most of the resolutions adopted by the Council have the African continent as their territorial or geographical focus, reforming the UNSC in this sense seems to hold priority.

3. Africa as a field of study

Since 9/11, numerous international interventions have taken place in states considered weak or collapsing, such as Libya, Iraq and Afghanistan. Elsewhere, numerous peace operations have been authorised by the UNSC and launched in African countries,

especially the Sahel region (Mali, Sudan). Similar operations have taken place in other parts of the world, such as Haiti, India/Pakistan and Timor-Leste (United Nations, n.d.). However, Africa has undoubtedly been the world region where most peace operations have been rolled out. Different authors mark the 9/11 attacks as a turning point in what failed and collapsing states mean for security. This is closely related to the fact that their focus is on the UNSC, which, according to the UN Charter, is in charge of maintaining international peace and security. From 2001-02 onwards, several authors began to publish their texts on failed states, making Africa, in the process, the field of study par excellence.

Robert I. Rotberg, in 2002, in his work *Failed States in a World of Terror,* refers to the fact that it is not only these "structural" causes that must be taken into account to understand the nature or behaviour of these states, but that some importance must also be attributed to the behaviour of individuals (Rotberg, 2002: 128). Former leaders of African states such as Siad Barre in Somalia, Mobutu in the Democratic Republic of Congo, Al-Bashir in Sudan, or Charles Taylor in Sierra Leone are not obscure figures; the politics of these states are often characterised by patronage and clientelism, with really high levels of corruption (Cooper, 2019: 259). In the same vein, Jesús Díez Alcalde speaks of this agency of African political leaders when he says that

> "In this context, African leaders were not capable of managing this new reality, and moreover, they built their national projects with their backs turned or in opposition to the majority of their population who were already suffering from endemic poverty, drowning in underdevelopment, and could hardly enjoy the benefits of the longed-for independence" (Díez Alcalde, 2015: 30).

The politicisation of the military establishment in Africa, for its part, has been a very strong regional trend; even today, there are States where, although the government is civilian, military influence is still very significant, as in the case of Nigeria, elaborated on by Professor Eduardo Carreño Lara in *¡Soldados, a sus cuarteles! Hacia una Gobernanza Política en Nigeria"* [Soldiers, to your barracks! Towards political governance in Nigeria]. In this work, Professor Lara speaks of the need for a "reform of civil-military relations" (Carreño Lara, 2015: 10), an essential factor that must be taken into account in the peacebuilding process in states where the presence of the military has been or is a major influence on society. The climate of violence created by successive civil wars, by poverty leading to need and greed, shapes a predetermined individual and collective behaviour based on survival and self-interest, leaving moral principles or so-called "democratic" values behind. It this struggle to promote the values of human rights, democracy or market freedom that regional organisations such as the African Union or the Association of Southeast Asian Nations (ASEAN) face major obstacles.

Four years later, Cynthia Arnson and William Zartman published *Economics of war: the interaction of need, creed, and greed*, in which they establish an interesting structure-agency interrelationship, where state weakness, a structural issue, is intertwined with greed, a factor informing individuals at the top of the state's political administration, and who in many cases, in African states, tend to be from the military branch. This

greed leads to the hoarding of scarce resources and to people needing resources that are for their very survival. Creed is used as a synonym for identity; as the authors point out, need or creed alone is not enough to lead to conflict, but a zero-sum scenario is required (Arnson and Zartman, 2006: 133). Unlike the UNSC, regional and sub-regional organisations such as the African Union or ECOWAS, among others, are closer to this type of problem and can therefore better focus on the practices to be undertaken to resolve conflicts derived from this triad (need-creed-greed). There is no shortage of arguments from African states, whether for quantitative or other reasons, to increase the number of seats in the UNSC, in line with the principle of geographic equity promoted by the UN Charter.

Timothy Raeymaekers, in his book *Collapse or order? Questioning state collapse in Africa* (2005)*,* refers to Zartman's (1995) and Clapham's (2002) definitions of collapsing state and failed state. "Collapsing state" is a situation where the structure, authority and legal order have fallen apart and must be rebuilt in some way (Zartman, 1995: 1). "Failed state" is one that is unable to fulfil core state functions, which requires further study of what those functions are (Clapham, 2002: 776). Whereas Raeymaekers does not mention these essential functions of the state, Arnson and Zartman do. In their work cited above, the authors note that "governance breakdowns generate grievances" (Arnson and Zartman, 2006: 131), where governance is based on the performance of basic functions or, as we can also extrapolate, on the provision of basic needs (the authors point out in the text that the performance of basic functions and the provision of basic needs are directly related to the incidence of armed conflict). Thus, the function of an effective government must be to provide for the basic needs of its population, that is, "the general qualities that people require to live" (Arnson and Zartman, 2006: 132). However, determining when a state has failed or is collapsing requires more fleshing out. The authors do not give a clear definition of what basic needs are, but only that they are prerequisites for life. The authors are right not to give a precise definition of what these needs are or should be, since we are entering a truly subjective field, these concepts will mean different things for different people.

Recently, published texts have been based on collecting concepts used by previous authors to analyse issues related to failed states and proposing new approaches or nuances to them, mainly for analytical purposes. In her text *Africa and International Relations: Assembling Africa, studying the world* (2016), Rita Abrahamsen develops what she calls the "assemblage approach", and seeks to expose the misconceptions of the colonial library, studying concepts such as state, society, or "the international". Finally, authors Kevin C. Dunn and Morten Bøås (2017), and Noel Twagiramungu *et al.* (2019) published articles in which they sought to redefine or qualify some concepts that had already emerged earlier. In their respective works, the authors expose different misconceptions held by Europeans when they think of Africa.

Dunn y Morten Bøås clearly state that when we speak of insurgencies on the African continent, even if we speak of them within so-called "collapsing states", we cannot speak of an absence of governance, but of an "environment of competing modes of governance" (Dunn and Bøås, 2017: 5). This is because these movements, be they

reformist, secessionist, liberationist or even the rise of warlords (this collectivisation of insurgent movements by Bøås and Dunn helps us to sort out the reality) are not oblivious to socio-political, economic and normative changes, but on the contrary: they destroy and create other systems according to their operating principles, but always within the framework of competition for governance. On the other hand, in the article by Twagiramungu *et al.*, the authors argue that the concepts of civil war and inter-state conflict are "too narrow to capture the particularities of wars in Africa", and that concepts such as state and non-state actors are not so easy to distinguish in the context of armed conflict (Twagiramungu *et al.*, 2019: 2-6).

4. Adequacy of the Security Council to fulfil its mandate

On 26 June 1945, the UNSC was given responsibility for preserving international peace and security (Art. 24.1 of the Charter). The importance of this body is based on the actions, through resolutions, it has taken over its lifetime, especially those relating to Article 2.4 of the UN Charter, on the prohibition of the use of force in the settlement of international disputes. Under hese provisions, the UNSC has a wide, and often controversial discretion to authorise measures to enforce state compliance with a range of obligations, most often related to the protection of human rights. The main problem that we will observe in the council's practice is the decision-making superiority that the five permanent members possess thanks to the right of veto they enjoy. This veto has allowed them on many occasions, to prevent the adoption of many resolutions that are in principle, unfavourable to them, clearly prioritising their status as sovereign countries and national security over international security. This is the so-called "original sin" of the UNSC.

On this inequality among states within the United Nations, Barnett and Finnemore express in *Political Approaches* , the role of the organisation as a "tool of the great powers" (Barnett and Finnemore, 2007: 43). The authors make a clear reference to and criticism of the five veto-wielding permanent members of the UNSC —Russia, the US, France, the UK and China— but not just in terms of their degree of control of the UNSC, but of the entire UN apparatus: "as a consequence, if someone wants to know what the UN will do, the place to look is not New York, but Washington, London, Paris, Beijing and Moscow" (Barnett and Finnemore, 2007: 43).

However, the veto and, in general, the superiority of five states over the remaining 191 cannot be understood as a coincidence but as a product of causality. One theory that should be taken into account by these authors is the "lesser evil theory", which Michael Ignatieff developed in his 2004 book "*The Lesser Evil: Political Ethics in an Age of Terror*". These privileges were accepted by the international community, which decided to adhere to the Charter as a "lesser evil" than not having the major nuclear-armed powers in the organisation, the effects of which had already been observed in Hiroshima and Nagasaki. As Ignatieff puts it, "Bad consequences are not always foreseeable, so, in choosing the path of the lesser evil, we may have to take blind steps,

knowing that, unfortunately, good intentions cannot absolve us of guilt when bad consequences occur" (Ignatieff, 2004: 30).

It is important to note that the idea of the right of veto was not first introduced in the UN Charter, but that of a similar instrument already existed in its predecessor, the League of Nations. Indeed, the Council of the League required the unanimity of all its members for the adoption of its decisions (League of Nations Covenant, 1919) (except in procedural matters). The change from total unanimity of the members of the Council of the League to the right of veto held by several UNSC states was therefore both an imposition and an acceptance of a new international order by the great and small powers, which would be prefixed in the various preparatory acts for the United Nations Charter, in particular the Dumbarton Oaks and Yalta Conferences of 1944 and 1945.

With the outbreak of the Syrian civil war in 2011 as part of the Arab Spring, Russia's (and, to an extent China's) systematic vetoes were the UNSC's main obstacle to intervening in the conflict (Menéndez del Valle 2016). The absence of the UN's most important body for the maintenance of international peace and security in a conflict as devastating as the Syrian conflict (as it has been and continues to be) is a harsh attack on the UN system with truly shocking international significance. In fact, the system had earlier been declared dead by Bush advisor Richard Perle (Perle, 2003). The current war in Ukraine, as we shall see, has proceeded to deal another severe blow, not only to the UNSC, but to the entire UN system.
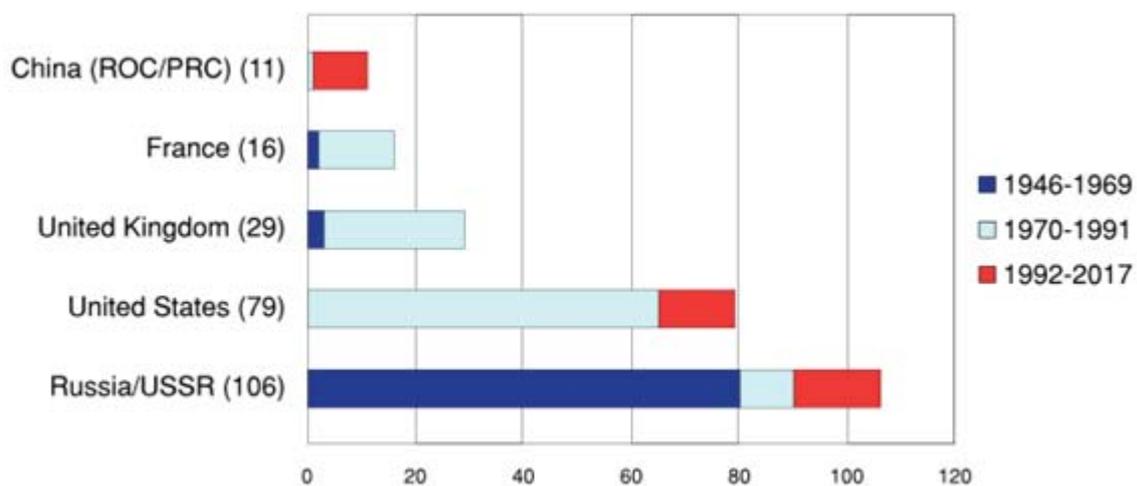
Graph 2. Vetoed United Nations Security Council Resolutions (Wikipedia).

Years later, in 2019, Lättilä and Ylönen published *United Nations Security Council reform revisited: a proposal*; the authors focus not only on the veto, but also on other internal shortcomings of the UNSC, such as inequality, exclusivity, the rotating seating system, and the system of representation (Lättilä and Ylönen, 2019: 166). Based on these factors, the authors propose a "Two-Layered Regional Model", in which they propose to address factors such as exclusivity, by allowing all UN member States to participate in Council debates; emphasise the principle of sovereign equality and

therefore abolishing the right of veto and any other privileges; and strengthen the representation of the different regional groups in accordance with reality. Alongside this model, the authors highlight other initiatives undertaken by certain groups of States in the interests of a future reform of the Council. However, realistically, this still seems far from a plausible possibility.

5. Ukraine war: the latest hard blow to the Security Council

The war in Ukraine, which began on 24 February 2022 with Russian military forces invading Ukrainian soil, has undoubtedly been a reaffirmation of what we have been seeing for years: the United Nations cannot function when the great powers so decide. One of the most novel features of this war is that it has Russia, a permanent member of the UNSC, as the main actor. In this case, the use of its veto was virtually certain, and so it has been. Russia vetoed two draft UNSC resolutions[1], making it necessary to adopt resolution withing the framework of the "Union for Peace" , whose origins date back to 1950, and which offers the possibility of holding an extraordinary session of the UNGA on UNSC matters when the UNSC becomes ineffective due to the abuse of the veto power of its permanent members. Professor Ved P. Nanda (2023) and Ivan Levy (2023) have discussed Russia's ability to block and veto UNSC draft resolutions on Ukraine. Nanda highlights the aforementioned challenge of the aggressor party (recognised as such by the UNGA) being a permanent member of the Council (P. Nanda, 2023: 306); for his part, Levy considers that this event has increased the need to consider a change in the composition and/or prerogatives of the most privileged members of the UNSC (Levy, 2023: 171-173). In sum, the literature is clear on the need for reform of the body charged with maintaining international peace and security, and events such as those in Syria and Ukraine reaffirm this position.

Although the Union for Peace resolution gives the UNGA the possibility to deal with matters within the Council's competence, this attribution of powers is not total, since the UNGA can only issue recommendations and its resolutions are therefore non-binding on states. However, from a geopolitical point of view, the UNGA extraordinary meetings and the votes on its resolutions condemning Russia's aggression served to put the positions of each of the states in the international community on the table, with very few (e.g. Syria and Nicaragua) voting against the resolution.

6. Peacebuilding

Having reviewed the literature on the suitability of the UNSC to fulfil its mandate, failed and collapsing states as a threat to international peace and security, and the

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1   The vetoed draft resolutions were S/2022/155 of 25 February 2022, one day after the start of Russian aggression against Ukraine; and S/2022/720 of 30 September 2022.

African region as a field of study in the peacebuilding process, we will move on to analyse post-war peacebuilding itself, for which Óscar Mateos (2019) uses the concept of "liberal peace".

Firstly, we must understand that peacebuilding, following Johan Galtung's 1976 model, is nothing more than the last phase of a process that is preceded by two previous phases: the first, peacekeeping, in times of peace or stability, and peacemaking which is the policies or efforts made to put an end to an ongoing armed conflict. Reaching the peacebuilding stage, it means that previous attempts to maintain peace and end an armed conflict have failed. In addition, in each of these stages, the actions and the subjects that carry them out are different. In the two stages of peacemaking and peacebuilding, the UNSC takes part, whereas it is primarily up to the states themselves and, where appropriate, the regional and international organisations created for this purpose, to maintain a degree of stability and avoid armed conflics between and within states .

Secondly, we should not equate failed or collapsed states entirely with passive subjects of peacebuilding; Ukraine is not a failed state as it has the capacity to perform its most essential functions; nor is it a collapsed state (all this prior to the outbreak of the war) as its institutions enjoyed a certain stability, a fact recognised by the European Union in the context of the Eastern European country's possible accession to the regional organisation. There are situations in which states with some stability can be a directly involved om armed conflict, including in Europe. Thus, the war in Ukraine has proved to be a blast of reality to the prevailing idealism of organisations such as the United Nations or the European Union, a blow that demonstrates that, although the United Nations Charter expressly prohibits war as a method of settling disputes, it remains an an alternative for certain subjects to protect their most legitimate interests and to pursue their interests as a last resort.

Many factors, including geographic, climatic, ethnic, religious and linguistic diversity, are at play in peacebuilding but are not taken into account by the texts considered. Instead, most literature focuses on others, such as the dilemmas inherent in peacebuilding (Paris and Sisk, 2011), critiques of the very concept of "liberal peace" (Mateos Martín, 2019), or the question of gender in the liberal peacebuilding project (Giménez-Arrieta, 2016). However, as the texts by Paris and Sisk and Óscar Mateos rightly state, an understanding of local realities is crucial for sustainable peacebuilding (Paris and Sisk, 2011: 8; Mateos Martín, 2019: 61).

For Paris and Sisk, the peacebuilding project in a post-conflict environment must be a sustainable project, where a positive peace is pursued and not just a mere absence of war. This goal should be pursued through a restructuring of the social contract with the populations of the war-torn territory and, to this end, the "successive missions" (Paris and Sisk, 2011: 13) of which Paris and Sisk speak must be studied themselves, as they form an area of analysis in their own right due to their nature and importance. While I agree with this aspect, I believe that another dilemma should be raised: the dilemma of legitimacy, i.e. who has the legitimacy and under what discourse to constitute such successive missions, to initiate social restructuring, and to decide who will govern the future post-war territory.

The dilemmas inherent in the peacebuilding participants are just as important as the dilemmas inherent in the project itself, since it is necessary to ask who carries out such projects, and for this the 'gender dilemma' should be included among the others, since in peacebuilding processes a lot of decision-making takes place in collegial bodies, through voting, and gender must be taken into account when including it in these bodies, such as the principle of parity in collegial bodies.

In relation to Óscar Mateos, as he concludes in his work, one should not fall into the "overproblematisation" (Mateos Martín, 2019: 77) of humanitarian intervention and peacebuilding projects here, the doctrine of the lesser evil mentioned above fits perfectly in this regard. Neither a pessimistic nor an optimistic view should be taken in approaching this project. Instead, an empirical approach ought to be taken, since it is a project that must evolve and we can analyse the observable effects it leaves in its wake, and observe patterns that do not facilitate the extrapolation of specific methods to other spaces although they should not be extrapolated to other areas due to the multiple differences that may exist in relation to the historical context or ethnic and religious components. However, I believe that an empirical analysis of the impact of peacebuilding projects, will allow us to observe which areas can be improved and which need to be restructured (gender in decision-making bodies, certain logistical issues of the interventions, or certain personnel needed in these peacebuilding processes, among others).

A text that may help to understand this proposed empirical study is *Conflicto palestino-israelí ¿Más proceso que paz?* [Israeli-Palestinian conflict: more process than peace?], by Professor Álvarez Ossorio, in which he explains the evolution of the Israeli-Palestinian conflict from its beginnings after the breakdown of the partition plan proposed by the United Nations in 1947, to the situation in 2011. In this analysis, the professor shows us the various initiatives that have been taken place to put an end to the conflict, such as the Oslo process, or the Arab Peace Initiative among others, although none of them managed to put an end to the conflict and reach an agreement between the both sides, or even to reduce the violence between the parties (Álvarez Ossorio, 2011: 46). Ossorio's conclusion is based on empirical field studies, which take into account the number of victims, the number and form of attacks and the conflicts that take place. Moreover, unlike previous authors, Ossorio does not focus the problem on statehood, but rather on the relationship of power between actors, a relationship that has not been changed by the various initiatives presented in his book (Álvarez Ossorio, 2011: 46). Thus, although the state is at the centre of the discussion, the real issue in the Israeli-Palestinian conflict is how to rebalance the power relations of the actors inhabiting the territory of the state, and how these relations can influence the creation of two states, the maintenance of the existing one, or an alternative solution.

This approach may be appropriate for understanding the current conflict in Ukraine, examining the power relations of the actors involved, not only Russia and Ukraine, but also others such as the United States, NATO, the European Union and others. When the Ukrainian war comes to an end, without the support of the UNSC for reasons already discussed, it will be essential to take these power relations into

account, how they stand at the end of the conflict, in order to establish a framework for peacebuilding.

In short, the peacebuilding process requieres a deep and multidimensional analysis. These three texts each offer a different perspective on this challenge. However, not only do they complement each other, but other texts, such as those mentioned in the section on the adequacy of the UNSC, are complement each other, for let us not forget that the peacebuilding process and the UNSC's mandate are intimately linked.

7. Conclusion

Determining a State as failed, fragile or collapsing can serve two purposes: analytical and adjectival. The first function allows us to monitor the level of governance of different governments; however, here the question arises as to what criteria define good or bad governance, and who imposes such criteria, leading to a problem of legitimacy. Such criteria are conspicuous by their absence in the texts considered. We believe they are important to discuss, bearing in mind that a definitive answer is not possible (being totally subjective concepts and perspectives) where the battle takes place in a debate with its performative power.

As we have seen, the composition of the UNSC runs counter to some of the principles of the UN Charter, in particular the principle of equality of member states and equitable geographical distribution, and in general, the principle of democracy that should govern all collegiate bodies. However, despite these shortcomings, which have been highlighted by numerous authors, it remains the body responsible of maintaining international peace and security by addressing threats that endanger these elements. It is in this institutional framework where we could find an answer to the question of legitimacy. Through its resolutions, it seeks to legitimise certain interventions and actions that, if necessary, infringe on state sovereignty without prior consent.

The issue of peacebuilding, for its part, corresponds partially to the final phase of a doctrine which, although it has not been taken into account in the texts, has been progressively developing since 2005. We refer to the Responsibility to Protect (R2P) doctrine, affirmed by all member states at that year's World Summit. Although the concept of peacebuilding applies to broader contexts, where such violence need not necessarily occur, it would be important to take this doctrine into account, in the way that the African Union already does.

In the most violence contexts, peacebuilding is not only a matter of strengthening failed states on the basis of the international security agenda, but above all protecting the civilian populations residing in these areas, who suffer the direct effects of armed conflict and its aftermath. Moreover, this responsibility lies not only with the state, but also, subsidiarily, with the international community represented, in this case, by the UNSC, the body that supposedly has the necessary legitimacy to impose such measures. Faced with the Security Council's inability to act in certain scenarios, regional

organisations must respond actively and take the relevant peacebuilding actions in their member states, insofar as possible. Anti-colonial or anti-imperial criticism of peacekeeping operations as a case of international interference in the internal affairs of a state, or as a sign of an alleged violation of state sovereignty, is legitimate and cannot be dismissed. However, given the inaction of state governments, either intentionally or through lack of means, to tackle the tasks of peacebuilding, and the threat of a future resurgence of conflict, there is no doubt that the international community's action is more than justified, both from an ethical and moral point of view and from a legal point of view.

Finally, there are still questions to be debated and resolved, and the creation of spaces for dialogue is essential to offer a response in accordance with the new changing realities. Both inside and outside institutions, particularly in the academic field, there is no need to bring out to the light of day subjects that have been silenced or little discussed in comparison to others. We are referring, for example, to gender equality in decision-making bodies, or to a deeper understanding of local realities, especially in an area prior to humanitarian intervention in a context of armed conflict.

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General considerations of Spanish military geographical thought applied to the study of borders and modern transport (1859-1936)

Abstract

The Industrial Revolution was not only taking place in the factories of Europe´s growing cities, but also a military revolution was taking place which was adapting the new inventions to its own purposes. In the same way, industry and science al produced new weapons which gave the military of all countries new means of actions.

Railways were the ultimate key to the progress of the great powers in the economic, political and military modernisation of the 19th and 20th centuries. The great motorised ships since the 19th century and the incredible aeronautical development since the 20th century have also been part of these keys to economic, political and military power for the great powers.

Keywords

Technology, Evolution, Frontiers, Military geography, States.

Cite this article:

1. Introduction

The invention of the wheel for land transport and the construction of floating vessels on water were inventions that —many millennia ago— changed the face of humanity wherever they reached. Those inventions appeared countless centuries ago and their exact origin is not the subject of debate in this article, but are taken as axioms. Our study begins in 1859 when Colonel José Gómez de Arteche published his *Geografía Histórico-Militar de España y Portugal* [Historical-military geography of Spain and Portugal], and it ends in 1936, the year Commander of the General Staff José Díaz de Villegas had published his *Geografía militar de España, países y mares limítrofes* [Military geography of Spain – bordering countries and seas]. This study uses primary sources that are in the Spanish language. These years cover a crucial period that saw a series of astonishing inventions in many fields,that changed life in the world forever. These years were therfore a major turning point, perhaps the most important period in world history for countless centuries.

So what happened then in those years that could be rated with such high importance? General Staff commanders José Irureta-Goyena and Secundino Serrano put it this way: "In metallurgical advances, we hit the apogee in the construction of rifles and machine guns, field guns and huge siege and naval guns, torpedoes, submarines, locomotives, automobiles, aeroplanes, spotlights, and the development of telegraphy and radiotelegraphy" (1925: 14). From this list of inventions, we should first highlight those that revolutionised transport. On land we have railways and automobiles; at sea we have steamships and submarines; in the skies we have aeroplanes and airships. These inventions were based on industrial production powered by coal, oil or electricity. In the field of armaments, it is worth mentioning the automatic weapons, with allowed a very high number of shots to be fired per soldier; the invention of large cannons with kilometre-long ranges and explosive ammunition, whose accuracy, range and lethality were unprecedented; and the invention of the "armoured cavalry", i.e. tanks armed with cannons and machine guns.

Military-geographical thinking changed as inventions entered the political and economic life of modern states, their societies and, of course, their armed forces. In this sense, what had been described once as distant territories, separated by major geographical features, became closer and closer in this period due to the high speeds and transport capacities of the new inventions. Mountains, rivers, seas, or deserts, geographical features that once separated countries or regions, were suddenly crossable due to a human ingenuity that blunted them or deprived them of their qualities. This advance march of technology affected plans for border defence and attack , both on land and at sea, as armies had to adapt their military plans to the new weapons and their new, hitherto unknown capabilities. They would even have to deal with the new border dimension of airspace. The one thing that did not change, according to Commander Epifanio Gascueña, was the object of war: "break the will and psychological strength of the enemy. All objectives leading to this will be good strategic objectives; their importance and their preference depend on each case and circumstance" (1922:13).

2. Defining military geography

Military geography in Spain had its period of greatest development between 1859 and 1936. Due to the fact that the concept of "military geography" and its field of study is very often misunderstood or unknown, I consider it necessary to make an initial review of its subject of study through the most important definitions by Spanish military men at that time, as it is crucial to precisely understand their way of thinking about this field. Later on, we will define the concept of borders and their dimensions on the basis of Spanish geographic-military texts.

As we noted in the introduction, Colonel Arteche's work was published in 1859. It was not only a fundamental work, but also a foundational one, since other Spanish military authors based their work on it in depth or criticised it. In his first paragraph, Arteche justified the need for his work on the basis of an existing shortage: "The lack of a treatise on Geography has been felt for a long time. After giving a clear idea of the varied configuration of the land that constitutes our Peninsula, under a reasoned and philosophical system, the treatise would offer the reader the most appropriate applications to the military art, according to the most authoritative theories and mainly, according to the experience of undeniable events, capable of serving as a guide for the future". And he goes on to point out that he himself is "convinced of the need for such interesting study and useful knowledge for the exercise of my military profession", because in his words, Spain lacked the precise knowledge necessary for the military to carry out their profession, which was to guarantee national defence and sovereignty (1859; V-IX).

Elaborating on the purpose of his work, he indicated that he had subjected his studies "to a general system in accordance with the standards of the art in the operations of armies" where he tried to "point out the influential points and lines in them" as well as "the communication facilitated between the most important centres of population to whose command or sustenance the war may be directed". Accordingly, the content of his work begins "with a general description of the Iberian Peninsula and a historical summary of its territorial division and of the invasions to which it has been subjected from the earliest times, indicating its irregular or methodical military progress, in order to point out with justification the most important general lines to cover in the defence of the country". He divided the country into "large hydrographic regions", from which he deduced "from their physical conditions, defensive state and the resources they can provide, the military properties corresponding to them, corroborated with the reasoned history of the most instructive campaigns that occurred there". And his work ends "with an analysis of our military state and the needs it is called upon to meet" (Gómez de Arteche, 1859; V to IX).

With the preface of this 1859 work we already have a first definition of military geography (knowledge useful for the exercise of the military profession), its objective (national defence) and its sources (physical and political geography and military history).

Later, in 1884, Commander of the General Staff, Leopoldo Barrios y Carrión, in his book *Geografía Militar de España. Comprendiendo sus islas adyacentes y posesiones de ultramar* [Military geography of Spain. Including its adjacent islands and overseas possessions] stated that military geography "is the science that studies the conformation of land surfaces in order to apply its knowledge to major military operations" (Barrios, 1884: 8-9). A few years later, in 1887, in the anonymous book entitled *Geografía militar de Europa. La geografía es la base en que se funda todo problema estratégico* [Military geography of Europe. Geography as the foundation for all strategic problems], we find a very similar definition, since it shows that "military or strategic geography [...] is the science that studies the configuration of the surfaces of our globe in order to be able to apply its knowledge to major military operations" (Anonymous, 1887).

At the same time, an Italian military man had a great influence in Spain thanks to the Spanish translation of his work in 1885. Lieutenant General Giovanni Sironi pointed out in his work *"Ensayo de Geografía Estratégica* [Essay on strategic geography] (1885: 9):

> "Military geography is a particular branch of geographical studies which has its origin in the special way in which the military man considers the different regions of the earth. He examines and studies them as spaces in which armies settle the conflicts of nations by force of arms, and discusses the importance and influence of the accidents of the terrain, either in isolation or as a whole, on the great operations of war".

This definition, in fact, had a very noticeable repercussion in other Spanish military men years later, such as the Engineer Captain Valeriano Casanueva y Novak, who in his book *Nociones de Geografía militar* [Concepts of military geography] offered this similar definition (1902: 3-4):

> "Military geography is that part of geographical studies in which the different regions of the earth are considered only as spaces in which the nations, by means of their armies, decide the success of the questions they have pending between them; it considers the accidents of the terrain, either in isolation or as a whole, only from the point of view of their importance and influence on the operations of war".

Geographical knowledge and its military application are the fundamental core of military geography. However, it was not until 1889 that definitions were found which, in my opinion, better express what military geography is the study of, since they manage to indicate in two words what is to be known and what is to be analysed. In this sense, Captain Manuel Castaños y Montijano, in his book entitled *Geografía militar de la Península Ibérica* [Military geography of the Iberian Peninsula] explained that military geography (1889: 144):

> "(…) is the science that studies the structure of the earth's surface, with application to warfare. It should, therefore, be divided into two parts: a descriptive part, outlining the natural and artificial features and pointing out the regions over which armies must move in order to achieve the

aims of a campaign; and a strategic part (which might better be called geostrategy) which discusses the value of the same features in the general and particular concept of military operations".

From here it is very important to highlight the *descriptive* and *strategic* parts, which summarise in two words the tasks that military geography must know and analyse.

Entering the 20ᵗʰ century, we find a book by Lieutenant Colonel Leandro Mariscal, entitled *Compendio de Geografía militar de España y Portugal* [Military geography compendium of Spain and Portugal] (1907), in which he defined military geography in this way: "It is the science that describes the earth's surface and studying what advantages can be obtained from the main accidents that cover it at a time of war" (Mariscal, 1907: 9). Furthermore, we find that military geography has two aspects in his view, 1) *Description*, and 2) *Discussion* (1907: 9) which keeps us on the aforementioned path of Captain Castaños' book (1889). Military geography must therefore describe the territory, and discuss its usefulness in war. Of course, the need for "interest in the matter is easy to demonstrate" (1907: 9), as one must know the country where one is going to fight (mountains, rivers, population, fortresses, roads, etc.) as well as the elements with which one can fight. And with this knowledge, the situation map is formed, where the objectives and the ways to achieve them are set.

In the 1920s, we find the definition developed by Lieutenant Colonel of the General Staff,[1] Luis Villanueva López-Moreno, whose work *Bases para el estudio de la Geografía Militar* [Foundations for studies in military geography] is, for me, the most precise and precious work of all these years because it offers, in addition to a definition of military geography, a methodology to analyse the multiple dimensions that every military geographer should study.

He stated succinctly that military geography "is the science that studies the influence and use of geographical factors in warfare" (1925: 27). However, military geography is a science derived from general geography whose field "is vast and […] is not limited to the study of physical accidents, but encompasses the most complex questions of the human factor, and, above all, the relationship between man and his environment takes on a preponderant role" […]. Thus, it turns out that (1925: 28):

> "All these elements in turn make up the concept of military geography in relation to the operations of war, the relativity of obstacles, the character of the inhabitants, their political ideals, their warlike aptitude, their resources, their defences, etc., and it is impossible to understand the successful use of the many elements available to the country or even the government of its inhabitants when these relationships and their foundations are unknown".

Finally, in 1936, we have the work of the Commander of the General Staff, José Díaz de Villegas (1936) whose prologue speaks of the object of military geography,

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which will definitely never be a narrow and anachronistic field, but a living, useful and current discipline:

> "The field of military geography has no limits, it embraces everything; the physical branch, with its geological, orographic, hydrographic and meteorological studies; politics, with its human societies, ethnic, political, religious and social groupings, the basis and origin of the struggle between men; everything is of interest to military geography and to those in charge of directing and executing war".

In short, military geography is the study of physical and political geography and of military history for the planning and conduct of warfare. We could even express it as a mathematical formula:

Military geography= (physical + political) geography + military history

In order to facilitate war planning, whose ultimate objective is national defence, Lieutenant Colonel Villanueva's book contains a methodology of analysis in the form of an index (1925: 32): "By which geographical studies can be ordered, taking care to adapt it to the circumstances and suitably modifying, in place and proportion, its various elements, depending on whether we are dealing with a nation, a region, a small territory, a theatre of war, etc."

1. General study of the territory.

   a) Physical factors.

      i. Geographical position.

      ii. Geological, orographic and hydrographic features.

      iii. General landforms and their composition.

      iv. Climatology-Vegetation-Water.

      v. Natural productions.

   f) Human factors.

      i. Historical situation.

      ii. Population.

      iii. Communications.

      iv. Agriculture, industry, trade.

      v. Psychology, culture, fine arts.

      vi. Political, social and economic issues.

   c) Military factors.

      i. Potentiality, Military use of activities and resources.

ii.   Strategic centres; objectives.

iii. Offensive and defensive, military and naval organisation.

iv.   Theatres of operations (natural and circumstantial).

v.   Military survey of coasts and borders.

2. Military considerations on the territory as a whole and historical confirmations.

This index is a key element in understanding the practical purpose of military geography, not only in the historical period from 1859 to 1936, but also in providing us with a contemporary analytical methodology. It this way, it shows that there is content, among Spanish military authors, that is useful for the present generation. With this methodology we can get an overall picture of the existing elements of a given territory, and from this we can draw conclusions regarding the borders in particular and other parts of a territory. It should always be remembered that the basis is general geography and the endpoint is military-geography.

With this index, we can have a precise idea of the characteristics of a country or region, but it will change when a novelty appears in one of its elements, such as new ideas or new inventions; such novelties may bring changes in other aspects that may be more or less important. In the case of borders, it was the motor-driven means of transport that were most noticeable, as they were able to cover greater distances in less time, and this consequently affected the way people lived and of course affected the way military operations were organised and conducted. In other words, the distance that used to separate the great centres of power became shorter and shorter as a result of greater speed and the mass use of transport. It is for all these reasons that we will then approach the study of borders from the perspective of military geography.

Inspired by the index of elements that Lieutenant Colonel Villanueva bequeathed to all the readers of his work in 1925, I have developed a classification that I will present here in seven variables (with their internal indicators), which will assist in understanding and evaluating the most important inventions and resources that arose between 1859 and 1936. The fundamental basis lies in understanding that there are inventions in one field that have an impact in other fields and thus promote a certain development path or action.

So, let us therefore look at the variables and their indicators, first schematiclly, and then briefly. I would like to stress once again that this outline is based on Spain as a modern European state in the period from 1859 to 1936. The indicators will necessarily change with changes to the space and time of the country or location under analysis:

1. Armament (A): Infantry, Cavalry/Armoured, Artillery, Trains*, Vehicles*, Vessels*, Submarines*, Aircraft* and Airships*. Ammunition, creation of the cartridge and howitzer, explosive ammunition.

2. Fortification (F): Permanent (castles, bastions, and bunkers), and Field (trenches and trench lines, casemates).

3. Ideas (I): Philosophical, cultural, sociological, , political, economic, etc. perspectives as the basis for the formation and global expansion of modern states.[2]

4. Demographics (D): Population growth or decline (rising or falling birth and death rates).

5. Science (S): Scientific advances in the fields of industry, medicine, chemistry, physics, cartography, transport, etc.

6. Natural resources (R): Energy type (coal and oil), mineral type (needed for products), and agri-food type (food).

7. Communication channels (C): Roads, railways, canals, bridges, tunnels, cable* or radio communication*.

Several elements are marked with an asterisk (*) in this classification, this is to emphasise that in those years we find on one hand a series of civilian inventions that ended up in military hands, while on the other hand there is a series of specifically military inventions. In the first case we have railways[3] and automobiles on land; steamships and submarines at sea; aircraft, hot air balloons and airships in the air; as well as cable and radio communications. In the second case we have the purely military use of everything mentioned just before added to armoured trains and armoured vehicles; armoured steamships, war submarines, aircraft for reconnaissance, fighting and bombing, and airships and hot-air balloons for surveillance and even attack; in armament we find automatic weapons,[4] rifled guns,[5] explosive ammunition,[6] and toxic gases.

Of all the above, there is undoubtedly one invention that stands out above the rest in the works of the Spanish military and their war planning and execution: the railway. This mass transport on land was a crucial turning point in world history as it was the first land transport capable of moving immense masses of troops and supplies in war, but also serving for the intensive trade of goods and transport of people in peacetime. The railway brought an unprecedented shortening of distances, which meant for military actions that the period of mobilisation and concentration of ground troops went from being counted in weeks to being counted in days. Arriving a day late to complete the concentration of its own army to defend its threatened border could mean a serious defeat. It could even lead to a national debacle were it overwhelmed

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2 Also noteworthy are international border treaties (delimitation or regulation), international cross-border organisations, creation of border security and internal police forces (carabineros and civil guards).

3 With its tramway and underground metro variant for passenger transport in the ever-expanding industrial cities.

4 For example, machine guns, which greatly multiplied the number of shots a pair of soldiers could fire.

5 Such guns greatly increased accuracy and range, both for infantry, artillery and ship-based weapons.

6 Used to cause devastation in areas, resulting in the need to hide troops in trenches or curtains, even later in underground bunkers out of sight and range of enemy weapons.

and crushed, or having to abandon some strategic territory of high demographic and economic value due to defensive incapacity. The 20th century saw the emergence of automobiles, a flexible companion to the railway. Both played an important role for military transport in the First World War.

Also noteworthy on the naval side was the creation of large, armoured vessels, both for war and transport. Air weapons, a brand new invention of the 20th century that had been constantly evolving since its appearance, offered new capabilities for military action. This will also be discussed below, albeit more briefly than rail and car land transport. Common to all these inventions was their speed and portability and their ability to overcome geographical features that had once been considered of great defensive value. These inventions had a direct impact on military planning of States, which raised a particular question: how could a country now defend its borders?

3. Defining borders in military geography

To define the concept of borders as expressed by the Spanish military, we first have the work of Infantry Commander Manuel Romerales Quintero and his *Estudio geográfico, militar y naval de España* [Geographical, military and naval survey of Spain]. Borders are "the dividing lines that separate different states". Internally, "borders are divided into natural, artificial and mixed". Regarding each type, the commander notes the following (1915: 145):

1. Natural borders "are those formed by a natural feature, which establishes a separation between the inhabitants of the regions on either side of it. Such boundaries include all those formed by a mountain range, a mighty river or the sea".

2. Artificial borders, "also called conventional borders, are those which, as a result of an agreement between the countries they separate, follow an agreed course, without natural obstacles determining them".

3. Mixed borders "are those derived from the two types of borders mentioned above".

A few years later, we find a similar definition in the work of Infantry Captain Lucas de Torre (1921: 19):

"Borders are the lines or areas of land that mark the limit of a people's or nation's land area. Geographically, they are considered to be divided into two classes: natural and artificial. The former are those which rest on geographical features of sufficient importance to constitute by themselves an obstacle to the march of armies, and the latter are those which, drawn at random in the midst of regions which nature sees as one, follow a conventional direction, fixed in advance by international treaties".

So far, the definition of borders is seen as natural, artificial or mixed lines or zones of separation. However, when we return to the work of Lieutenant Colonel Villanueva, we see a different vision of borders, which "may be considered as zones, from the geographical and political point of view, and although these aspects are inseparable from the military, in the tactical and strategic order, it is necessary to consider them as lines with all the consequences that their very conception entails, an artifice of men at odds with geographical realities" (1925: 155).

This allows us to understand that borders are both zones and lines at the same time (the difference is in the approach, whether it is geographical or military). In fact, he denies the existence of natural borders because for him, all borders are created by human hands, and therefore, "there is no scientific rigour today that allows it to be accepted as a starting point for the rational study of borders" (1925: 154). He goes on to point out that the origin of the idea of borders as natural or artificial comes from the false association of mountain ranges and rivers as walls and moats of the country. Borders are, therefore, an artifice which requires the greatest care and the most meticulous foresight [...] and by which the first clashes of a war, which, as is well known, tend to be the most momentous, must be presided over" (1925: 155)

Indeed, earlier works by important Spanish military officers maintained the idea that natural boders were based on some important geographical feature, while artificial borders were drawn over open country. As a result, natural borders were synonymous with military borders for the defence of the country. The underlying idea was that the existence of a significant geographical feature (especially mountains and rivers) meant that with a few military works and small garrisons a realistic defence could be maintained, in other words, with the lowest budget. Whereas, on an artificial border, i.e. in the open, much more must be spent on military works and establishing larger garrisons (in short, higher expenditure). Let us look at two examples:

– Natural [borders] are also called military borders, because of the defensive value of the accident that determines them, and on the other hand, a nation whose confines are artificial is said to lack borders (García Alonso, 1901: 13).

– Natural borders are also called military borders because the accidents that form them are, when necessary, defensive lines; on the other hand, a nation is called a borderless nation if it has only artificial ones (Mariscal, 1907: 32).

Finally, on the typology of boundaries, Villanueva points out the existence of two types not mentioned in previous works (1925: 156-157):

1. Buffers: A strong State establishes neutralised States around it. The example of this would be Belgium as a neutral country.

2. Strategic boundary: One State seeks to control a border sector of a rival State. The example here would be France vis-à-vis the west of Germany after 1919.

As we can see, the Spanish military studied borders, especially land borders, because the great wars were fought over land, and therefore the great movement of armies took

place over land (although the naval factor was never neglected). Consequently, the defence plans to be drawn up had to be constantly updated, taking into account those human inventions that transformed geography so that its features no longer had:

> "[…] the value they used to have in war. So that the geographic-military problem relating to borders will consist of the correct evaluation of these features, adapting them to the circumstances of the present and knowing how to make the best possible use of the conditions of the land" (Villanueva, 1925: 155-156).

4. The land revolution: railways and automobiles

As noted above, the railway stands out from other technological advances in this period. It had two possible uses: in peacetime it was the fastest, mass transit system for raw materials, goods and people; and in wartime it was equally fast and large-scale for transporting soldiers, weapons and supplies to defend one's own borders or, conversely, to cross one's own borders into neighbouring states. At that time, the Spanish military understood that the railway was crucial for the economic and social progress of Spain, apart from being the main tool for (defensive and offensive) war operations. In this sense, the Spanish military's understanding of the use of railways evolved in parallel with the evolution of events, both in relation to the economic development of the great European colonial empires and in relation to the results of some of the wars that marked a turning point in history, for example, the Franco-Prussian War (1870-71) and the First World War (1914-18). It was precisely these wars which were test of blood and fire, that showed how important it was understanding railways and knowing how to use them for military purposes, especially for transporting troops to one's own borders or frontlines during war operations.

4.1. Railways and national prosperity

Among the Spanish military of this period, Epifanio Gascueña Gascón, commander of the General Staff Corps, and his work *Los ferrocarriles españoles y la defensa nacional (Spanish Railways and National Defence)*[7] stands out. This work is absolutely key for everything it deals with, as it establishes an intimate and total connection between railway activity in peacetime (for trade and communication) and actions in wartime, which we will address. Afterwards, we will see the outline of the history of the military use of the railway by Commander Gascueña, where he highlighted the most important wars and the role played by the railways in them.

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7 According to the title page, it won first prize for the General Staff theme in the 1920 official competition for military themes.

In analysing this valuable work, I will start with the chapter on "Importancia social de los medios de comunicación y de transporte y de los ferrocarriles en particular" [Social importance of means of communication and transport, and of railways in particular].[8] In this respect, Commander Gascueña stated that, "the new discoveries that have facilitated the speed of communications and transport and eliminated the greatest distances, constitute the essential factors in the interweaving of the economic structure of contemporary society" (1922: 17). From among all these factors:

> "The railways stand out as the first among peers. Without them, large-scale industry could not have blossomed and developed. In addition to the commercial and industrial advantages, railways are of great national interest from the moral and political point of view: they eliminate distances and ensure national unity, because the more connections and journeys, the greater the community of interests; with the greater the contact, prejudices disappear".

In short, for Commander Gascueña: "Railways are, therefore, instruments of civilisation and progress. Of all human works, it is the one that has produced the greatest economic and social revolution and the one that indicates most surely and best the degree of civilisation, progress, power and well-being of a nation" (1922: 17).

Commander Gascueña also addressed the purely military issue of railways, i.e. strategic railways.[9] He strongly emphasised the relationship between the wealth of the country developed in times of peace and the military use of the railways since, "the interests of national defence are the same as those of the normal life of the country" (1922: 31). This, in his words, is justified as follows: "The railway that develops the wealth of a region contributes to the defence, moreover, [...] the general wealth of the country is the first element that must be counted on for the preparation of war" (1922: 32). From what has been seen so far, it is clear that the "intimate link between the general interests of the country and those of national defence make it necessary to study the strategic railways in their double character as military and commercial lines, as elements of strength and wealth" (1922: 83).

The work of Lieutenant Colonel Villanueva, for its part, is also very relevant for an overall, deep vision of the use of railways in the civilian and military spheres, that is, in peace and wartime. In his work he pointed out that (1925: 164):

> "All peoples have endeavoured to improve their railway networks, to structure them appropriately for the use of such a decisive element of war [...], and to ensure, at the same time as a prosperous economic development, an effective intervention of the State [...] which, [...], will always keep them ready to exercise their high mission in the defence of the country".

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8   Chapter II of the book (Gascueña, 1922: 17).

9   Strategic railways are those built solely for military purposes, without any commercial justification.

In addition, Lieutenant Colonel Villanueva also highlighted the economic value of the railway in his work, since (1925: 141):

> "One of the main sources of wealth consists in the development of industries [...], requiring the establishment of communication and traffic routes to meet growing needs [...]. When the regions in this case are close to borders, all circumstances introducing modifications must be the object of special attention on the part of the governments responsible for the security of the country, since the works carried out, and especially the roads and railways, may alter the defensive conditions of that sector and contribute more easily, by falling into the hands of the enemy, to the attainment of one of its most coveted goals".

Thus, we can clearly understand that the vision of the most important military men of the time was that industry was on one hand the source of wealth and progress of the country, and on the other hand, a basic military target to be especially careful about when located near a border. In this sense, armies will defend in war what is prosperous in peace, for therein lie the objectives of every enemy: conquer what would increase its economy and, conversely, dispossess its rival of the sources of wealth and production.

4.2. *Railways as a weapon of war*

Having pointed out their great importance of the railways in terms of trade, wealth and progress, let us look specifically at its military importance in history, as this is the most important value with regard to military geography. Commander Gascueña made a short and precise historical summary in which he chronologically presented the development of the railway in the wars (1922: 20-22) from its origins in the mid-19th century until 1918, the end of the Great War:

> "The military use of railways began with the trial in England of transporting a regiment from Liverpool to Manchester (50 kilometres) in two hours back in 1832. The Danish campaign (1849-51) already provided an example of a major troop transport, with 75,000 infantrymen, 8,000 horses and 1,800 carriages being driven from Vienna and some Hungarian towns to Brunn and Olmutz in twenty-six days by six or seven trains a day. But it was not until the war of 1859 that the railways really played an important military role. In that war, some 604,000 men and 130,000 horses were transported from the French squares to the theatre of operations in Lombardy; in ten days, the 35,000 men and 4,500 horses of the Imperial Guard were moved from Paris to the Sardinian border. In addition, the railways were also used with the greatest success to transport reserve troops to the battlefield.
>
> The American Civil War (1861-1865) was even more conclusive, [...].

That war fully demonstrated the possibility of undertaking operations at considerable distances from supply centres thanks to railways. It showed the need for special organisation to re-establish lines destroyed by the enemy, and highlighted the difficulties involved in combining the military and technical elements in the management and operation of railways. In short, it was the first in which railways were used systematically and skilfully for military-technical purposes.

Moltke in Germany realised early on the role railways could play in war and the measures he took as Prussian Chief of Staff had a favourable impact in 1866[10] and much more decisively in 1870.[11] All military writers have recognised that one of the most important causes of German success in the last of the above-mentioned wars was the speed with which the forces were mobilised and transported thanks to the railways and the excellent organisation and smooth operation of the military railway apparatus.

The Franco-Prussian war finally convinced the whole world, and obliged states to take a series of resolute measures based on the principle that railways were one of the most important and effective elements of modern warfare, not only strategically, but also logistically and even tactically, if all the necessary precautions had been taken in terms of the organisation and military preparation of the railways during peacetime.

The wars following the Franco-Prussian war brought nothing new to the means of transport other than corroboration of what has already been said. In the Boer War[12] and in the Russo-Japanese War[13] it became clear that the iron road was the only supply route for troops. In the latter war, the railway was like an umbilical cord for the Russians and they had to take care of it above everything else. Thus, the main operations and battles were fought in the vicinity of this track".

Finally, on the military history of the railways, Commander Gascueña dealt separately with the role of the railways in World War I (1922: 22). This war was significant not only because of the improvement of railway use, but also because it included a newer means of land transport, the automobile (which we will discuss later). But, to return to the First World War, the railways "gave a formidable performance their use; from a strategic point of view, above all, they surpassed the limits attributed to their potential" (1922: 24). In this regard, Commander Gascueña highlighted the actions of mobilisation and concentration, as the main European powers competed to

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10   1866 refers to the Austro-Prussian war.

11   1870 refers to the Franco-Prussian war.

12   There were two Boer wars, the first in 1880-81, and the second between 1899 and 1902. I believe that the author is referring only to the second, as it was the longest and involved the largest number of troops.

13   The Russo-Japanese war took place in 1904-05.

carry out these preparatory actions in the shortest possible time, given that: "A single day's advance in concentration represents a considerable advantage over the adversary, because a fully prepared army can throw itself upon an army that is not yet prepared" (1922: 24). Finally, on concentration, Commander Gascueña also remarked "that the speed of concentration depends on the length of the line in conjunction with the proper functioning and strength of the transport" (1922: 24).

Commander Gascueña also explained the use of the railways for military concentration, saying that from all this mass, rapid use of the railways creates the inherent need to supply the huge military masses with huge quantities of supplies at all times, as an army cannot sustain itself in action without all the necessary supplies. In short, "supply and evacuation transports are, therefore, another necessity of strategy" (1922: 19). In addition to the factor of constant supply, he also pointed to speed as a crucial factor in warfare; speed is key to surprise attacks or counter-attacks with reserve forces. "In both cases, it must be ensured by the above-mentioned transports that the mass is a warrior mass" (1922: 19).

4.3. Railways and automobiles

As previously mentioned, technological advances in the First World War were not limited to the intensive and planned use of railways, but also to the mass use of automobiles. In this regard, Commander Gascueña mentioned that since World War I, the automobile and the railway had been the best mechanical means of land transport, and consequently the military strategy required the use of both means of transport. It was explained by the military man in this way (1922: 19-20):

> "Without the railroad and the automobile, the troops required by the armed nation would be impossible, because the local resources could not feed them and the necessary supplies would have to be brought from the rear; nor could concentrations of dozens of divisions be made for a battle without taking a long time [...]; it would also not be feasible to bring from the factories, scattered throughout the national territory, the ammunition required for rapid-fire equipment, and the considerable work in the intensive use of fortifications would not be achieved for lack of material and machines".

Later, in 1934, for the commander of the General Staff, José Clar, automobiles and railways were already two inseparable and necessary elements in war. He pointed out that roads and railways were "the arteries through which the life of that monstrous Mars, a nation at arms, circulates" (1934: 64).

In fact, such was the importance of railways and automobiles in the military field that Commander Gascueña stated that because of them the war "has degenerated into a war of transport as much as a war of matériel" (1922: 20), and all manoeuvres, both strategic and tactical, would be conducted by rail and road transport. In this

regard, mention should also be made of the importance he attached to double-track lines, as opposed to single track, since a double-track route could establish an outward and a return direction, which would greatly increase the speed and effectiveness of deployment, as well as the withdrawal of material and the return of casualties.

On the question of which transport was faster (train or car), Commander Gascueña did not prefer one over the other, but rather described the optimal scope of action of each transport resource, so that they could be understood and used in the most efficient way (all exemplified by the historical cases of the First World War). Accordingly, in the words of the commander (1922: 29):

> "The car is less bound than the railways to rigid routes, is more flexible and less influenced by the destruction wrought by aviation; but it is naturally subject to the number and condition of the roads, and is greatly affected by the inevitable congestion which always exists in areas where military operations are carried out".

As for Commander Clar, the rail network needed to be complemented by the road network in order to establish, through the flexibility of roads, a large number of points of contact between troops, as well as to have alternative ways to move in case one of them was destroyed by the enemy, among other reasons (1934: 64). He also stressed the importance of cars during the First World War in providing the troops with all the supplies they needed to continue fighting. Lieutenant Colonel Villanueva noted "the 4,000 taxis that took 70,000 men from Paris to Meaux in 6 hours contributed to the victory at Marne" (1925: 162), and also mentioned in his work the massive use of trucks that supplied Verdun (1916) through the *voie sacrée* and served to sustain its defence.

As for the capacity of each transport, Commander Gascueña explained that the capacity of 150 lorries is equivalent to that of a single train, making the automobile a good complement to the railway, but not a substitute (at least with the technological advances of the time). In this sense, "the car has its special value as a distributing agent and for stage service" (Villanueva, 1925: 162). In fact, in 1925 the commanders Irureta-Goyena and Serrano also pointed out that the automobile was very useful for rapid concentration, but at the same time it was costly and fragile, requiring a lot of material and human resources (Irureta and Serrano, 1925: 173). What these Spanish military personnel had in common was the appeal to the speed of action provided by war transportation (in the mobilisation, concentration and military operations that took place in the wars of those years).

Going a little deeper into the matter, Commander Gascueña pointed out that (1922: 30):

> "The motorcar industry has been more involved than anything else in strategic operations on the battlefield where railways were absent or insufficient, or no advantage could be gained by using the railways because the distance to be travelled was not long enough. With surprise being a function of swiftness and swiftness being a function of transport speed, all

the means at one's disposal to form concentrations in the theatre of war capable of bringing about a decisive and important victory will always be too little and insufficient".

Finnaly, as it is the latest work, Commander Clar also made recommendations similar to those of the aforementioned military men. For example, he recommended the use of the car for short distances (less than 100 kilometres) and for more than 100 kilometres he recommended the railway because "it is enough to remember that one train is equivalent to 170 lorries" (1934: 75-76). He went on to point out that the disadvantages of cars include breakdowns on long journeys as well as wear and tear on the roads.[14] Commander Clar concluded that, up to that time (1934), railways were unrivalled in moving large quantities between distant points. Furthermore, railways, with a smaller staff, could move more material with less expenditure of fuel, at greater speed and taking up less space, and railways suffered little wear and tear compared to cars (1934: 76).

5. New weapons and new scenarios: the seas and skies

General Lamarque stated: "It is quite possible that steam will one day bring about as complete a revolution in the means of warfare as the invention of gunpowder" (1885: 232). And indeed it was, as we have already seen in the case of land transport and will now see in much greater detail with regard to naval and air transport. Motorised transport was not only used on land —trains and cars— but also at sea and in the hitherto unknown field of air transport. This was stated by Lieutenant Colonel Villanueva: "the achievements of aviation bring a third dimension to the notion of borders" (1925: 157), i.e. in addition to land and sea borders, there were now air borders. But we will start at the historical and technical level. Infantry Captain Benito Martín, in his scientific-military studies, described the situation (1909: 112-113):

> "Three elements surround us on the globe, namely land, water and air, on which man has tried to march in the best conditions of speed and safety. The first thing he thought of was to perfect the natural faculties of moving on the ground, making use of animal tractors, applying wheels to vehicles, taking advantage of the propulsive force of steam, oil, electricity, etc. The almost intuitive ability to support oneself and move, using water as a support, has been progressively improved by mankind, inventing boats with oars, sails, steam, and nowadays reaching the point of submerging and moving in the depths of the liquid with submarines, built in almost all nations. The same efforts have been made by man to become master of the air, and yet many centuries have passed without any result".

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14   In addition, both cars and roads require a large number of staff and a large amount of material for repairs.

5.1. Naval forces

The Infantry Commander, Francisco Villamartín, who was a highly renowned military officer from the 19th century (and revered to this day in the 21st century), expounded in his military thinking a remarkable quality of steamships, which is that they can sail in any direction no matter which way the wind blows. In his words, this has a very important military consequence, since (1883: 590):

> "A squadron of steamers can rendezvous and assemble on the same day, and perhaps at the same hour, at a point on the high seas, with the confidence that few or none of the steamers will miss the rendezvous, whereas a sailing squadron cannot because of the danger that the ships may not be able to arrive at the proper time. Moreover, it is sometimes forced to disperse against its will, because its departures, movements and manoeuvres depend on the wind and the sea".

With these possibilities for action by naval forces, it is worth noting the words of Lieutenant Colonel Villanueva, where he pointed out that in a historical perspective (1925: 37):

> "At one time, the peoples surrounded by the sea were, in a certain sense, distanced from the life of relationships for which that element was an obstacle due to the scarce development of maritime navigation, [...] it was easy to isolate themselves politically at will, [...]; the seas were real moats that defended them from possible enemy attacks".

But since the 19th century, new motorised ships had also reduced the time it took to travel what once had been large distances. However, it was not all advantage. Just as modern land-based armies require constant mass resupplies, so too do navies to be constantly resupplied in order to continue their military movements and actions. This need was covered by the creation and defence of naval bases that were always adapted to the military conditions of the maritime and land forces in the 19th century, with air bases being added in the 20th century (Gascueña, 1922: 144-157).

Regarding the steamships and the large cannons installed on land and on ships, Lieutenant Colonel Villanueva indicated that the "artillery on a coast may keep an enemy at bay, but [...] it never represents control of the sea, rather a guarantee that the maritime borders will not be breached" (1925: 150). Another element to be taken into account were the steam transport ships, whose use was crucial for any landing in enemy territory, "but they can also be powerful auxiliaries of the land-based concentration when there is maritime superiority and there is no great danger that the convoys could be surprised by the enemy" (1925: 187).

Finally, of all the most innovative naval inventions of the period, the submarine stands out for its ability to navigate and attack under the sea. Commanders Irureta-Goyena and Serrano pointed out that during the First World War (1925: 16):

"The submarine was used for the first time, and in the midst of wartime operations a great step was taken in the development of underwater navigation, from the first small-tonnage, short-range submersibles to larger ones, and it was even the case that in this great conflict the *Deutschland*, a merchant submarine, was launched, which reached the United States and returned to Germany, without being hunted by its adversaries".

5.2. *Air forces*

As we have already seen, engines on land and at sea had revolutionary applications, increasing the capacity and speed of transport in times of peace and war to unprecedented levels. But the flying machines also opened up the skies, creating a new point of contact or conflict for humanity. A new place for trade or war over land and sea Commanders Irureta-Goyena and Serrano again pointed out something similar to the submarines, in the sense that it was during the First World War "when aerial navigation acquired enormous development and it can be said that at the end of this conflagration of races and continents, it is known more for military applications than others" (1925: 467). We are going to focus on the military applications of these mechanical birds, because in the opinion of those commanders, planes "will cease to be, as they were at the beginning of the 1914 war, just 'the eyes of the army' and will become a very important factor in victory" (1925: 468). And indeed, time has shown the ever-increasing importance of aviation to military operations in all subsequent wars.

The development of aviation was already such at the time of Commanders Irureta-Goyena and Serrano that they described in their work the basic organisation of aeronautics as follows (1925: 468):

"It includes aviation, aerostation and air defence.

Aviation uses heavier-than-air aircraft, organised in squadrons; it observes by means of its reconnaissance units, for the benefit of the various weapons; it bombs and fights with its bombers (day and night) and fighters.

Aerostation uses lighter-than-air aircraft and is given the same general surveillance, firing and liaison missions as reconnaissance aviation, with which it coordinates its action.

Air defence has ground-based protection assets; artillery groups, machine gun units, searchlight personnel, tethered balloon personnel, concealment personnel, pursuit and transmission service".

Although aeronautics had been developed in the 19th century with airships[15] and these proved very useful for gaininga high view of unknown terrain for photography and mapping, as well as for bombing, they were quickly superseded and replaced by the development of aviation during the First World War. Commander Gascueña indicated that for the defensive organisation of borders, it was not only necessary to have railways and roads, but also: "Numerous airfields will form the bases of the aircraft which are to carry out and assist reconnaissance or to prevent those of the enemy, with which they will have to fight in order to become masters of the skies" (1922: 10). On this last point, Commanders Irureta-Goyena and Serrano explained that the planes would need a flat, clear field on which to take off and land as well as facilities for storing, repairing and refuelling the planes, and a command post for these air weapons (Irureta and Serrano, 1925: 471).

But how much military utility do aircraft have in warfare? Commanders Irureta-Goyena and Serrano also described the missions that these flying weapons could perform. 1) *Information*: Distant reconnaissance and aerial photography to ascertain enemy positions and strength; close reconnaissance to ascertain the destruction carried out (1925: 472). 2) *Artillery*: Support to artillery units in their destructive work (1925: 472). 3) *Link*: Connection between different army units when the communications network is destroyed in an offensive (1925: 473). 4) *Combat*: "These missions involve: aerial combat, in order to gain control of the air; the prohibition of enemy aircraft from certain regions; the protection of certain aerial reconnaissance; combat against troops" (1925): 473. 5) *Bombing*: Attacks "on the rearguard, cantonments, cavalry mustering, batteries, livestock staging posts, stations, ammunition and materiel depots, bridges, headquarters, etc." (1925: 475). In addition, these bombings would also attack "large industrial centres, naval and air bases, and other similar ones of real military importance, because of the direct influence they have on operations, and they also compromise mobilisation and concentration" (1925: 475). 6) *Special*: Troop supply and offloading (1925: 476).

The result was a new means of attack, whose destruction from the air could reach both the front line and the vital centres in the interior of the country. The creation of anti-aircraft weapons was therefore logical and necessary. This would be the air defence mentioned earlier by Commanders Irureta-Goyena and Serrano, but Commander Clar went into more detail (1934: 145-146):

> "Air defence, or anti-aircraft defence, has a variety of means, some active and some passive. Among the former, we can cite aviation, artillery, machine guns, searchlights and sound locators; among the latter, we can name barrage balloons, shelters, camouflage, various rescue services, etc.; and as a complement to each other, there must also be information, pursuit and transmission networks".

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15   For more information on this interesting topic, see the historical overview and military action capabilities of airships from the second half of the 19th century, both for reconnaissance and bombardments (Martin, 1909: 112-131).

6. Conclusions

In the light of history, technological advances forced the Spanish military to adapt the planning and execution of its military operations. It focused in particular on international war events, where other militaries would use the new devices as part of their national arsenals and where the fate of countries and peoples would be decided.

In the field of military geography, technology opened up a new space to add to land and maritime borders - airspace, a third dimension of borders. The possibilities offered by aviation to attack further afield and with greater ease also meant that special measures had to be taken to defend against such aerial onslaughts. And in the face of so much progress, other old weapons became obsolete to the point that historical weapons such as cavalry were called into question in the face of the incipient *armoured cavalry*. Cable and radio communications brought people, countries and armies into rapid connection. The industrial-military revolution of those years changed the face of the world by action or reaction, starting with the modern states that competed with each other for the whole world. Their expansive pretensions drove them, and their technologies opened up new possibilities.

Territories that were once difficult to cross, and seas that were once so vast to navigate, began an irreversible process of shrinking in the face of the roaring engines that propelled merchants and armies of different states around the world. Where it previously required months to mobilise and concentrate an army, it was now a matter of weeks or even days as the use of railways intensified and the mass use of automobiles took off. Where previously there had been a clear border separation, the new large-calibre guns with kilometre-long ranges brought them easily within attack. Where there was previously no economic value, suddenly, the discovery of some energy or mineral resource made the area crucial to the possessor's growth in peacetime and sustenance in wartime.

Ultimately, technological changes necessarily implied military changes in each country. They had to adapt the technological innovation for offensive use or defensive preparation, as could be seen from the incremental additions by creators to put theory into practice. This was as true then as it is now, and will continue to be true in the future. General geography, as we have seen, is not a field limited to its physical part, but encompasses all fields as is well reflected in Lieutenant Colonel Villanueva's index. We must always take into account the changes in physical factors, political factors and military factors to produce the most up-to-date assessments of geography applied to military requirements. Or even use the 7-variable methodology with internal indicators that I developed from Villanueva's essential reading.
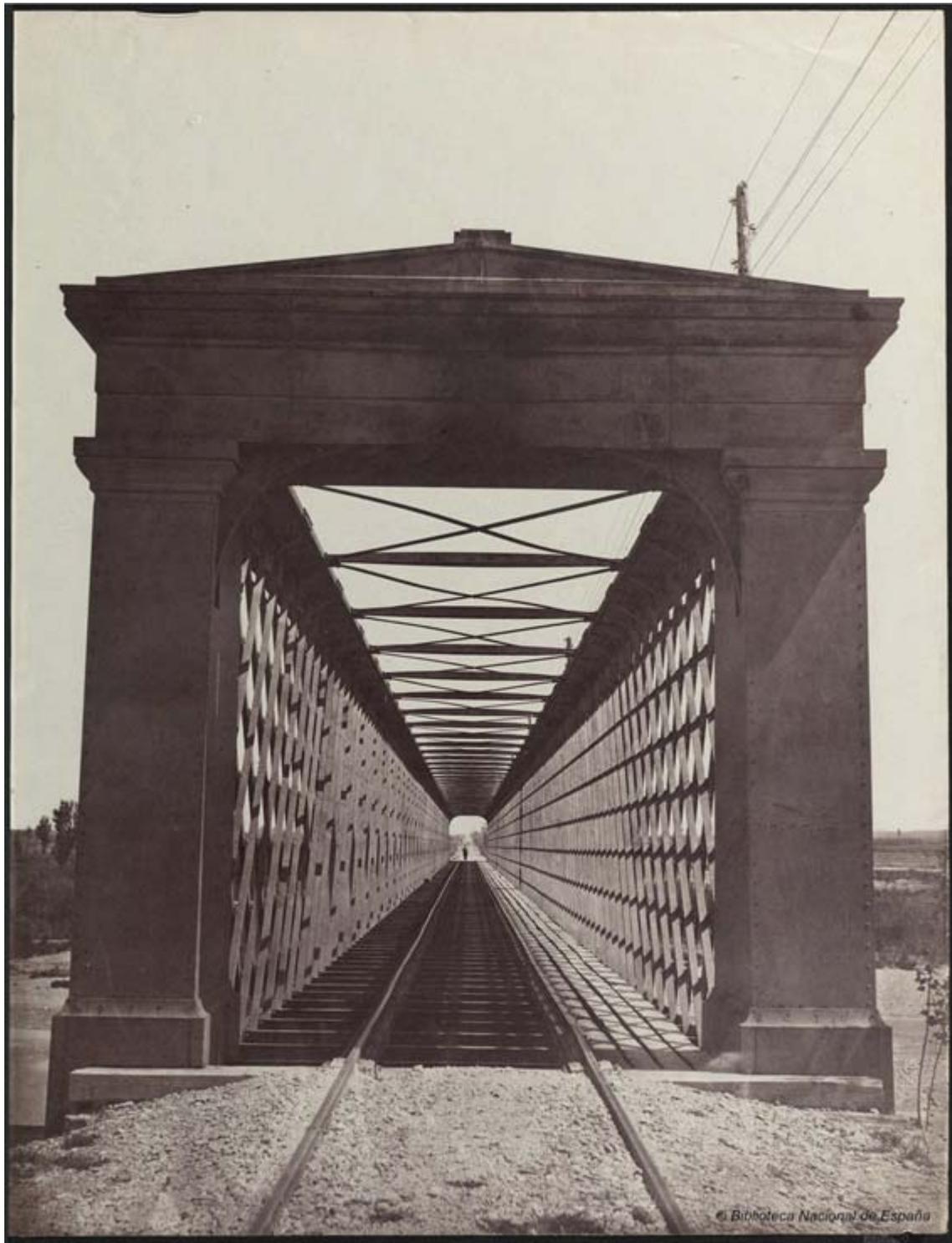
Fig.1. A photograph from 1867 showing three technological symbols of this modern period just analysed: railway tracks across an iron bridge, with telegraph poles for communication[16].

16   M. Sánchez. "Iron bridge". (1867). [Accessed: 01/10/2022]. Available at: http://bdh-rd.bne.es/viewer.vm?id=0000018644.

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REVIEW
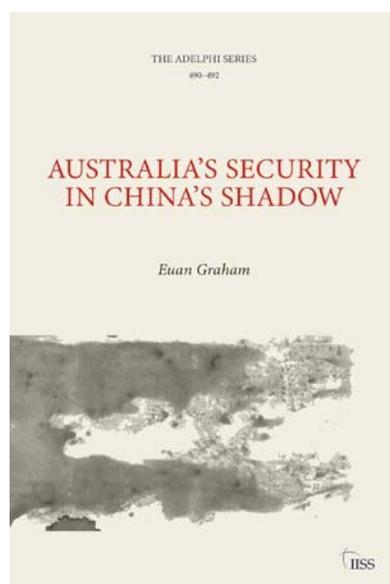
On 24 April 2023, the Australian government, led by Prime Minister Anthony Albanese, publicly released its Defence Strategic Review (DSR). In the words of Defence Minister Richard Marles, the document represents a radical security shift in Australia´s security posture, even though the DSR was last updated in 2020. Echoing other recent strategic initiatives in Indo-Pacific countries such as Japan and South Korea, the Australian DSR plans a more ambitious build-up of its armed forces to make them capable of responding to growing threats in the country's environment.

The DSR advocates a closer alliance with traditional allies such as the US and the UK, justifying this on the grounds that China poses a serious threat to Australian interests. To this end, the Australian Defence Force (ADF) is judged to be currently unfit to deal with such threats without the acquisition of new capabilities, such as nuclear submarines, in order to provide a credible deterrent to the threat posed by China. Such build-up should be done in the shortest time possible, in order to add effective defence measures to possible cooperation with its allies, both in the Quadrilateral Security Dialogue (QUAD) framework and in bilateral treaties with third countries. China and its global power projection forms the persistent backdrop. For Australia, how has this Chinese path to hegemon been perceived? Was there always a relationship marked by suspicion? *Australia's security in China's shadow*, published in March 2023 when the DSR had not yet been released, answers these questions.

The book's author, Euan Graham, has a long career as an expert on Indo-Pacific geopolitics. He is a senior fellow of the Shangri-La Dialogue for Indo-Pacific Defence and Strategy at the International Institute for Strategic Studies in Singapore. Moreover, in recent years he has turned his expertise to defence policy and Australia's maritime strategy, having lived and worked in Japan, Singapore and Australia, where he was executive director of La Trobe Asia in Melbourne and director of the Lowy Institute's International Security Programme. Prior to that, he worked in the UK government as a research analyst in the Foreign and Commonwealth Office, covering both North East and South East Asia.

Graham argues that a paradigm shift in Australia-China relations began in 2020 and which has solidified three years later, with Australia's perception of a Chinese security threat overtaking the traditionally good and fruitful economic and trade relations between the two countries. This relationship continue to this day. Canberra has therefore implemented a new defence policy in response to this perceived risk, both internally, countering Chinese efforts to influence Australia politically in an increasingly direct way and externally, most notably by resisting Chinese expansion in both Southeast Asia and the Southwest Pacific. Thus, Australia concluded that there was a need to acquire new capabilities and actively participate in strategic initiatives such as QUAD and AUKUS. For Graham, Australia has emerged as the leading example of a regional response to China's multiple security challenges.

The book is divided into seven chapters, each analysing a different aspect of the multiple challenges China poses to Australia's security and assessing the effectiveness of Australia's policy responses on each point. Of course, the author's focus is primarily on Australia and less on China's response or capabilities, as he sees Australia facing

its most significant strategic challenge since World War II, with both domestic and foreign policy ramifications.

The first chapter, symptomatically entitled "The end of the affair", traces the relationship between Australia and China from the 1960s to the present day, based on the author's premise that the Chinese giant has always had an interest in influencing Australia and her interests, both in domestic and foreign policy.

In chapter two, "China policy begins at home", Graham develops the Australian government's initiatives since the early 2020s to combat Chinese influence at home (an apparent priority even above the external risk posed by China's presence in the Southwest Pacific) which has used tools such as espionage and disinformation, sometimes using fraudulent methods, other times loopholes in Australian laws or lack of cyber capabilities. In this sense, the Chinese Communist Party (CCP) is seen as the main dominant threat in Australia, and although the Australian government has always avoided pointing the finger directly at it, Canberra has nonetheless fought against a certain degree of coercion from the Chinese side, including the acquiescence of a significant section of the population with pro-Beijing sympathies.

Chapter three, "The political economy of Australia-China Relations", describes the implementation, also from 2020, of a new economic policy in Australia as another response to perceived risks from China. Australia has managed to withstand the punitive trade restrictions that came from Beijing in retaliation that year without suffering major economic damage. The chapter analyses the main features of the economic relations between Australia and China, scaling them up in trade, investment and security. In addition, Graham highlights how Australia has beena pioneer among Western countries in enacting early measures to mitigate the risk of dependence on

Map: Australia and its surrounding region. Source: Adelphi Series, 61:490-492, pp. 10-12, DOI: 10.1080/19445571.2021.2187583.

China, for example with the decision in 2018 to ban Chinese telecoms companies from participating in the country's 5G network.

Chapter four, "The China factor in Australia's defence strategy and alliance posture", looks at Australia's security and defence with this paradigm shift away from China starting in 2020. In the author's view, there have been considerable improvements in capabilities over the years, existing alliances have been strengthened or new ones have been forged, with the result that Australia now appears as a regional actor with the power to deter China's intentions, whatever they may be and in whatever sphere they may take place. More specifically, and in the context of Australia's alliance with the United States, Graham examines Australia's growing role in the United States' own military strategy towards China and the wider Pacific region. There is one final question that is difficult to answer, which confronts us with a hypothetical yet what could be a catastrophic scenario: can Australia deter Beijing without having nuclear weapons of its own? The debate on the acquisition and production of nuclear submarines in the framework of AUKUS can be seen as a response to this.

In chapter five, "Australia's Indo-Pacific statecraft and Southeast Asia, Graham explains how China influences Australian policy towards the Indo-Pacific and more specifically towards Southeast Asia and the Southwest Pacific, immediately adjacent to Australia itself. Thus, security and defence have emerged as Australia's main objectives for these regions, even more so than trade and economics. The author analyses this policy by framing it at the multilateral level, with membership of organisations such as QUAD, AUKUS and relations with ASEAN, and at the bilateral level, especially with leading countries in the region such as India, Japan, Indonesia, South Korea and Taiwan, without forgetting the absolutely key actor, the US. The common denominator in all these relations is the challenge that China represents at each of these two levels, where some of the responses offered by the Canberra government have not been correct, from Graham's point of view.

Within this analysis of Australian foreign and security policy towards the Indo-Pacific, Southeast Asia and the Southwest Pacific, chapter six focuses on the latter region, which is Australia's primary sphere of influence. In "Competing with China in the Southwest Pacific", Graham explains how the scattered island group of Melanesia, Micronesia and Polynesia comprises mainly open waters and Australia's main trade and communication routes with North Asia, New Zealand and the United States. It is also the closest sub-region to major population centres such as Sydney, Melbourne and Brisbane. Once again, the threat of China's projection makes Australia's desire to guarantee maritime security in this area an imperative also shared by the island states involved, which can recognise Australia as the major actor protecting their security interests.

The seventh and final chapter is Graham's final reflection based on the analyses contained in the previous sections and on the idea of the significant change in bilateral relations between China and Australia since the early 2020s, although in most of the previous decade a clear cooling had already been perceived, The author places the blame for Australia's new stance towards China, made public in the April 2023

DSR, on China's perceived openly hostile behaviour in economic, diplomatic and security matters. Although relations between the two countries are not set in stone, an improvement between Canberra and Beijing is unlikely in the coming years. In fact, since May 2022 the new Labour government of Prime Minister Anthony Albanese has not only maintained but increased Australia's anti-China security strategy with new measures, as its April 2023 review demonstrates.

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RECENSION

PLAYING CHESS WITH THE DEVIL. WORLD SITUATION IN A NUTSHELL

Vicente Gonzalvo Navarro, Lieutenant Colonel of the Marines

Editorial: Europa Edizioni (406) pages

ISBN: 9791220137188
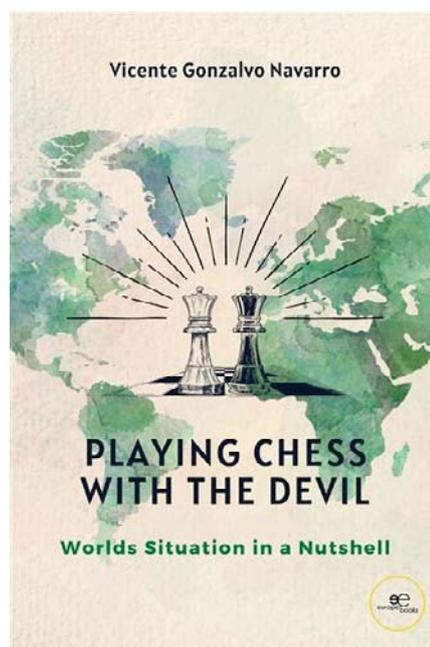
Thought and doctrine are specific needs of each society. Both concepts carry with them the references on which they are built. That is why internal production should be encouraged, especially at the military level. And at this level, production should be from a strategic point of view, because of its relevance.

Strategic thinking is closely linked to intellectual excellence. It is not easy, because it requires people with credentials and a specific sensitivity that is not innate but is cultivated. Culture comes from the word cultivation.

Developing this particular sensitivity is therefore a strategic necessity. This requires education, humanism, time, specialisation, open-mindeness and an understanding of the environment, in short, a specific professionalism and qualification. Undertaking such an endeavour is only possible as long as it is enjoyable. It is, paradoxically, a cold and dispassionate job that nevertheless demands passion and dedication in its execution.

Art, strategy and geopolitics are intertwined; they have overlapping components. They all deal with an enormous amount of data and factors that leave a remarkable place for intuition in their performance. Art explains the unseen, trascending the specular nature of experience itself, forshadowing signs of where societies are heading, just as, in other fields and mechanics, strategy and geopolitics do.

Geopolitics has seen a sharp rise in public interest in recent years. The simplicity and graphism of its explanations, formed in a visual way through a map, made it dangerous once before; it was a kind of mental weapon that could shape fictions to be achieved and create scientific stories of unquestionable future.

Geopolitics is an intuitive science because it allows proposals to be formulated without spending too much time analysing in detail the factors into which the situation can be broken down. It embodies a kind of alchemy that makes it possible to produce "obvious" formulations to those who are not versed in the intricacies of the problems because, in the name of graphism and clarity, it dispenses with the innumerable nuances that accompany the facts. Geopolitics can thus be said to make one map out of another.

This map establishes the ideological framework for debates which, from the outset and just by acting in this way, have been won for the purposes of the geopolitical author. Laozi noted in *Tao Te Ching* that the wise man, "by placing himself behind, places himself in front" (LI). Power, especially in the 21st century, is the ability to influence and is related to the right reference.

And, as Byung Chul Han points out, "Feeling precedes thought," any rational decision necessarily passes through the emotional-cultural sieve, with all that such a procedure entails in terms of the priming of references. All knowledge is emotionally biased.

Thus, it is enough to look at James Bond films to get an idea of the geopolitical evolution of the world from an Anglo-Saxon perspective, while, innocently enough,

giving power and relevance to the political action of the United Kingdom, reinforcing its "special relationship" and quasi-parity with the United States is, fixing its concepts of international relations in its favour and magnifying its power. To recall Hobbes, the fiction of power is power.

By the same logic, it should be noted that many of the internationally accepted rankings of teaching and research quality are made based on US-UK standards, which is not entirely unrelated to the results.

As we have said, strategic and geopolitical thinking involves, albeit implicitly, the sense of what is important, the culture, modes and references of those who elaborate it. It is therefore not a task that should be abandoned or left entirely in the hands of third parties. As a development of this logic, we need a geopolitics made in Spain.

And with good reason. A minimally advanced nation cannot just be a consumer of what others produce, and in bulk. And that is a crime for a nation with a history and culture like ours. Analyses made by third parties always leave us with a bad taste in the mouth because they are used to defend and value what is theirs; and we are competitors, whether we like it or not. Spain's history is not like that of any average country, which is why it offends.

Today, dominant thinking's thinking is, in strategic and doctrinal terms is of Anglo-Saxon origin and therefore, logically, tailored to and referenced to it. This is likely to remain so in the short term, not only because they control the field of ideas and set the framework for the debate, but above all, because they have a large distribution apparatus at their disposal, which is very difficult to access successfully.

In this regard, it should be noted that some US think tanks have a budget similar to that of the World Trade Organisation (WTO). The result of their work are real blockbusters with a system for distributing ideas on par to that of Hollywood.

This guarantees the dominance of a certain ways of thinking and references. They are solidly based in themselves and become unquestionable because they are considered commonplace and anything otherwise would be heresy. Other points of views are not banned, they are simply not disseminated or not widely disseminated. This is why they are presented, at best, as "alternatives" to current thinking, if not as mere echoes or scholastic reverberations of it.

English has transformed into the language of science and its institutions also in a court of law that grants the academic label; the quality with which this language is spoken defines in some way the quality of the researcher. And since there has to be an alternative model (like Noam Chomsky's), its production is also taken over. In this way, national thinking is discouraged and countries are intellectually colonised. In practice, this is a kind of Bulgarian-style cultural monolith. And confronting it requires courage, patience and considerable resources, but also an understanding of the importance of not leaving this logic of thinking to third parties.

Nothing less than breaking with this factual self-reproductive framework is the challenge faced by the work of Marine Lieutenant Colonel Vicente Gonzalvo Navarro, entitled *Playing Chess with the Devil* and published by London-based *Europe Books* in 2022.

The author, in addition to having a full military career up to his current position, which has taken him to different countries, holds a Doctorate in Law and a General Staff Diploma. His step forward into the world of publishing, and doing so in another language, is to be congratulated.

But the harvest is plentiful and the labourers are few. Our country can be —and in fact already is— a kind of intellectual hu, simply because of the global reach of the Spanish language and our cultural forms. This must extend even further into the realm of the strategic and reach out to thinking in broad terms, as this essay does.

This is a book written within academic parameters (citations and references), in English and aimed at those speakers, but it incorporates ideological baggage with an inevitable national bias, even though the bibliography relies mainly on English material. Nevertheless, his implicit assumptions, constructs and assessments are our own. This is, in national terms and beyond its content, one of the main assets of the work.

But it is not only written in English, it is also enjoyable to read and deals with highly topical issues; indeed, the essay was completed in the spring of 2022, at the zenith of a period of particular geopolitical instability. It is not for nothing that the publication is presented as a summary or compendium of the world situation, as foreshadowed by the second part of its title: *World situation in a Nutshell*. This is a challenge in addition to the previous ones, but one that the uncertainties of the situation make it easier to face. In that sense, he had it easy.

The 401-page essay is divided into 17 chapters, which are in turn grouped into three main areas. The first is devoted to the most immediate challenges for international security; the second looks at the possibilities offered by military tools and strategies in the current geopolitical context. And the third is specifically dedicated to certain conflict regions.

The titles of the chapters that make up each one of these parts operate as summaries of their contents and refer to cybersecurity; international relations and geography; Ukraine and Russia, China as the new hegemon; Africa as a battlefield; weak states and international security; migration; Ibero-America as a forgotten continent; special operations in hybrid conflicts; security and conflict in the air (a chapter written in collaboration with Air Force Colonel Miguel A. Saez Nievas); the strategic importance of space; disinformation as a tactical weapon; nuclear weapons; Iran; the Taiwan conflict and its repercussions on global security; Afghanistan and its lessons; and finally, a specific chapter dedicated to world leadership and geopolitics.

For Lieutenant Colonel Gonzalvo, international security is affected by the interrelationships or interactions between all of the above issues mentioned. It becomes a mixture of war, economics and geopolitics. Needless to say, the outcome

goes far beyond the military —the Machiavellianism of strategy too often confuses force with power, and power is much more than force, it is the ability to build— and in practice, the author believes, it represents a clash between China and NATO, an organisation that he sees as acting as an extension of the United States. The outcome of this challenge will determine the model of the world's security system.

However, he sees the 21st century as a continuation of the 20th century. In fact, he notes that international policy is being redefined in a sort of re-edition of the model adopted during the Yalta Conference with three voices: those of Biden, Xi and Putin, to whose personal profiles he devotes a chapter. In any event, he also believes that the geopolitical landscape has changed significantly.

For the author, we are in a period of transition, in an interregnum. And this is a time when the course of the interactions to which we have allude can give rise to much and can provoke some surprises. The West does not have the correct frame of reference of the world situation, which distorts the results of its analysis and, worse still, invokes Ortega's warning that "every ignored reality prepares its revenge".

An example of this is the fact that the UN General Assembly in 2022 condemned the invasion of Ukraine but while only five countries (unsurprisingly) voted against the resolution, 38 others unexpectedly abstained. It seems that the West only listens to itself and is surprised when other discourses are raised from the strategic semi-periphery. In this sense we can conclude that there is a lack of understanding of the environment and that important parameters have been replaced by implicit ones that are, to say the least, highly questionable.

Finally, the ideological background of the essay, as we have seen, refers to political realism, to the interplay of powers. In fact, the author begins the work with a well-known quotation from Machiavelli. And, in this line he makes use of a good ideological-doctrinal apparatus. He quotes all the great classics of this model of political thought as well as some of its most significant current referents, and he even includes an express condemnation of Fukuyama. One might think that this is a classic, very military view. But it is also true that there is innovation in the book.

In short, this essay is a Spanish contribution to the international community of thought, a contribution and another reference to global strategic thinking that does not seek to disdain, supplant, confront or replace any other, for the simple reason that there is room for everyone; and reflections that come from new references are welcome. Reality is multifaceted and admits many different points of view. The more references are taken and the more divergent the references are from each other, the richer and more approximate the result will be.

We are, to use a famous Chinese curse, living in interesting times, which are probably deserving more thought than is being given to them. These are times of great scientific progress, in which technology has become a game changer due to its capacity to impact international relations. But scientific progress is no guarantee of moral progress or even of rationality. And so the nuclear threat has resurfaced, taking

us back to the era of Mutually Assured Destruction, as Lieutenant Colonel Gonzalvo rightly points out in his work.

In conclusion, this book is welcome on three levels: firstly, because it deals with current geopolitics; secondly, because it provides a Spanish vision in a world that, at least in the West, is dominated by an almost exclusively Anglo-Saxon way of thinking; and thirdly, because it is written by a military man. Let us hope that this will stimulate others and serve to broaden what is, in our view, still a very narrow base of military thinkers. Training them requires prolonged education and this, in turn, requires encouragement and role models.

It is just over 100 years since the end of the First World War, a conflict that claimed more than 25 million lives, and whose causes are still being debated. Perhap it was an attempt to resolve a rivalry by means of a war, which was not the answer. Perhaps, the answer could have been found in international markets if not elsewhere. And leadership failed.

That may have been the case with the war in Ukraine. It is difficult to make political or geopolitical sense of this conflict. Whether the outcome is victory or defeat, either option can mean anything from Russia's isolation to its breaking up. And that is when its natural exit is the West, a civilisation with which it shares culture if not destiny.

Russia is increasingly enveloped —whether by the Arctic or by the Silk Road, which runs through the post-Soviet space— by China, a country that has a 4,000-kilometre border with it, GDP ten times higher than it and whose natural hinterland is Siberia. And that is at a time when the global leadership contest is being fought between the United States and China. Russia, with the geopolitical options afforded by its 17 million square kilometres and its nuclear weapons, is not fit to be a contender in such a contest, however willing it may be. The roar of the cannon can hardly increase GDP.

After all, history never repeats itself —except as farce— but it often rhymes.

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